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The Solicitors' Journal

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PUBLIC NOTICES.

CIVIL SERVICE COMMISSION.

Vacancies exist for two Professional Clerks in the Department of H.M. Procurator General and Treasury Solicitor. Salary for men £309, rising to £628; for women £309, rising to £510. Prospects of promotion to higher posts. Applicants must be Barristers or Admitted Solicitors and preference will be given to candidates who have had service in H.M. Forces, and among these to such as have served in a Government Department. Candidates who have not served in H.M. Forces and also in a Government Department must be under 35 on the 27th November, 1934.

The initial salary may be increased by increments of approximately £17 10s. in the case of men, and approximately £11 10s. in the case of women, in respect of each completed year, not exceeding five, of professional experience, after reaching the age of 25.

Further particulars and forms of application may be obtained from the Establishment Officer, Treasury Solicitor's Department, Storey's Gate, London, S.W.1. No application can be considered unless received on the prescribed form not later than 27th November, 1934.

METROPOLITAN WATER BOARD.

APPOINTMENT OF PARLIAMENTARY ASSISTANT.

The Metropolitan Water Board invite applications for the appointment of Parliamentary Assistant in the Department of the Clerk of the Board at an inclusive salary of £600 per annum. The appointment is restricted to candidates who are either Barristers-at-Law or Solicitors, with experience of parliamentary work, and the age limit is 40 years.

The person appointed will be required to devote the whole of his time to the service of the Board, and to act under the direction of the Clerk of the Board. The appointment will be held during the pleasure of the Board, and the person appointed will be subject to the Board's Standing Orders, regulations and rules in force from time to time.

The selected candidate will be required to pass satisfactorily a medical examination by the Board's Chief Medical Officer and to undertake in writing to join the Superannuation and Provident Fund.

Applicants should give their age and state whether engaged in private practice; and applications should embody full particulars of the candidate's experience, qualifications and appointments held. Special attention is directed to the fact that experience in parliamentary work is essential. Copies of not more than three testimonials should accompany applications; and an intimation should be given as to the earliest date on which the applicant could take up his duties, if appointed.

Applications, which must be submitted on the form provided for the purpose, a copy of which can be obtained from the undersigned, should be addressed to the Clerk of the Board endorsed "Application for appointment as Parliamentary Assistant," and must reach the offices of the Board not later than 24th November, 1934. The form contains further particulars concerning the appointment.

Canvassing will be held to be a disqualification.

G. F. STRINGER,
Clerk of the Board.

Offices of the Board:
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London, E.C.1.
5th November, 1934.

CIVIL SERVICE COMMISSION.

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Candidates must be Barristers or admitted Solicitors, and should have had experience of Real Property Law and Conveyancing; they must be under the age of 35 on the 20th November, 1934, but this age limit may be extended in favour of candidates who served in H.M. Forces between the 4th August, 1914, and the 11th November, 1918, and are or have been employed in a Government Department.

The initial salary may be increased by increments of approximately £17 10s. in the case of men, and approximately £11 10s. in the case of women in respect of each completed year, not exceeding five, of professional experience after reaching the age of 25.

Forms of application and copies of the regulations may be obtained from the Secretary, Civil Service Commission, Burlington-gardens, London, W.1, to be returned not later than the 20th November, 1934.

APPOINTMENTS VACANT.

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DEATH.

MR. JOHN WHITTLE, Senior Partner in the firm of Messrs. John Whittle, Robinson & Bailey, Solicitors, of 6, Cannon-street, Preston, died on the 2nd inst., aged 43. Mr. Whittle was admitted in 1912.

The Solicitors' Journal

VOL. LXXVIII. **Saturday, November 10, 1934.** No. 45

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Current Topics.

The New Judges.

THE formal preliminaries to the appointment of two new judges having been duly complied with, the Lord Chancellor has lost no time in filling the vacancies in the King's Bench Division created by the promotion of Mr. Justice ROCHE to the Court of Appeal and by the resignation of Mr. Justice ACTON. The choice of the Lord Chancellor has fallen upon Mr. SINGLETON, K.C. and Mr. PORTER, K.C., and their selection will, we believe, be warmly approved by the profession. Mr. SINGLETON, who took silk in 1922, and has been for some years Recorder of Preston, has enjoyed a large general practice, both on the Northern Circuit and in London, in the conduct of which he showed himself both forceful and tactful, and thus eminently qualified to discourse wisely and usefully, as he did a year or two ago, on "Conduct at the Bar and some Problems of Advocacy," a lecture which, later, was published and the proceeds of sale allocated to the funds of the Barristers' Benevolent Association. His colleague, Mr. PORTER, who took silk in 1925, has been Recorder of Walsall and has twice at least acted as a Commissioner of Assize, has specialised chiefly in mercantile law, has been for some years one of the leaders in the Commercial Court, and has been senior editor of the two latest editions of the late Lord Justice SCRUTTON'S classic treatise on "Charterparties and Bills of Lading." With their various qualifications the new accessions to the Bench will, we feel sure, amply justify their appointment.

Moral and Legal Duties.

IT is told of ROBERT MONSEY ROLFE, afterwards Lord Chancellor CRANWORTH, that while still a junior at the Bar, on hearing counsel on one occasion submitting to the court that Christianity is part of the law of England, turned to a professional friend with the question: "Have you ever been instructed to draw an indictment against a man for not loving his neighbour as himself"? The answer was obvious and was conclusive that the whole code of morals enunciated in the New Testament had not then, nor has it yet, been incorporated into the common law of England. Criticism has frequently been directed against the law for its apparent callousness in the refusal to recognise the altruistic efforts on the part of individuals to assist others in moments of danger, and its tolerance of such things as what our American friends call "spite fences" erected simply in order to cut off a neighbour's view, or to drain percolating water for the sole purpose of injuring another's reservoir. It is significant, however, that several learned writers have of late urged that this attitude is to be strongly deprecated. Professor GOODHART, in his collection of essays published some time ago—a collection worthy of careful study—declared that sooner or later the English law will have to be changed so as to include the principle laid down in s. 226 of the German Civil Code: "The exercise of a right which can have no purpose except the infliction of injury on another is unlawful"; while Mr. C. K. ALLEN, in his equally learned and valuable work, "Legal Duties," says that the principle embodied in such cases as *Bradford Corporation* v. *Pickles* [1895] A.C. 587, will perhaps, die hard in England "but the sooner we are able to pronounce life extinct, and follow it decently to the grave the better, I believe, for English jurisprudence." The decision of the Court of Appeal last week, affirming the judgment of Mr. Justice FINLAY, in *Haynes* v. *Harwood* [1934] 2 K.B. 240, is also a welcome recognition that a gallant effort to stop bolting horses, with injurious consequences to the person performing the act, is not to be lightly dismissed as coming within the doctrine of *volenti non fit injuria*. It is true, that in that case the hero of the piece was a police constable, and it may be argued that the decision was based upon that fact, but the interlocutory observations of the Lords Justices appeared to place the grounds of their decision upon a wider foundation, namely, a moral duty to save life or to prevent danger to those using the highway. It seems thus a departure from the old doctrine that if one endeavours to rescue a person placed in danger by the negligence of another, and suffers injury while doing so, he is to be regarded in law as a mere intermeddler who is not to be encouraged in any way.

A Home Office Circular.

ALL who care for the decency of public entertainment will welcome the recent Home Office circular dealing with news-reel films. A question had arisen as to whether certain types of film in the category of news-reel films should be shown without submission to the British Board of Film Censors or the consent of the licensing authorities concerned, and the circular gives attention to the proper interpretation of the phrase "photographs of current events." There had been a suggestion that since the introduction of the accompanying running commentary to the news-reels, such films must be regarded as more and other than "photographs of current events." The Film Censorship Consultative Committee had considered certain types of films, and were satisfied that films which could not be regarded as news-reels had been treated as such. Such films, the committee thought, should not be exhibited without prior examination. The circular states that the Secretary of State hopes that the licensing authorities will consider at an early date the desirability of adopting revised model conditions—details of which are set out—to licences granted by them. In view of the criticism of recent news-reels on account of the objectionable nature of the incidents depicted in them, it should be borne in mind, the circular states, that the first of the model conditions, which prohibits

the exhibition of films likely to be offensive to public feeling, applies to news-reels as well as to the other films. The news-reel is not generally objectionable, but occasionally horrible and gruesome incidents of death and assassination have shocked audiences whose desire was more for light entertainment than for the indulgence of sadistic impulses. The British Board of Film Censors has no control over news-reels, and the control which licensing authorities may exercise under the Cinematograph Act, 1909, by means of attaching the condition held valid in *Mills* v. *London County Council* [1925] 1 K.B. 213, that " no film which has not been passed for universal exhibition by the British Board of Film Censors shall be exhibited in the premises without the express consent of the Council," does not expressly deal with news-reels. Fortunately there have been no bad cases of indecent or disgusting exhibitions such as justified prosecutions in *Reg.* v. *Saunders*, 1 Q.B.D. 15, and *R.* v. *Grey*, 4 F. & F. 73, the former of which dealt with indecent exhibitions in a booth and the latter with disgusting exhibitions on the highway. The new model condition prohibiting the exhibition of films likely to be offensive to public feeling should be speedily adopted by licensing authorities, in order to do away with all possibility of future criticism on this score.

Bills in Parliament.

The Incitement to Disaffection Bill, which has now passed through the second reading stage in the House of Lords, was read the third time in the House of Commons towards the end of last week, having been amended in two particulars during the report stage. One amendment is to the effect that the power to grant a search warrant shall be vested in a judge of the High Court instead of two justices as originally provided, the other imposes a duty on the police officer who has conducted or directed a search to notify the occupier of the premises that the search has taken place and to supply him with a list of removed documents or other objects, and " where any documents have been removed from any other person to supply that person with a list of such documents." The recent removal of the Betting and Lotteries Bill from the Standing Committee except as to Cl. 1, which has been dealt with, to the floor of the House provoked an interesting discussion on Parliamentary procedure. There appears to be no exact precedent, but the Government had indicated its intention to secure passage of the Bill as a whole or drop it altogether, and the means adopted appeared to be the only one available for disposing of the measure before prorogation of the session about the middle of this month. The Poor Law Bill, read the second time on Monday, effects amendments to the Poor Law in England similar to those applied to Scotland by the Act of the previous session relating to matters to be disregarded in affording outdoor relief such as parts of sick pay, benefits received under the National Insurance Acts and disability pensions and (with certain exceptions) the whole of any maternity benefit under the Acts aforesaid.

Law Revision : New Subjects.

Additional subjects referred by the Lord Chancellor to the Law Revision Committee under the chairmanship of the Master of the Rolls for consideration and report include the amendment or repeal of s. 4 of the Statute of Frauds, 1677, of the Statute of Frauds Amendment Act, 1828, of the Mercantile Law Amendment Act, 1856, and of the Sale of Goods Act, 1893, s. 4. Various aspects of the doctrine of consideration will also be under review, notably the rule that a promise to perform an existing duty is no consideration, that consideration must move from the promisee, the need for consideration to make simple contracts enforceable and the rule in *Pinnel's Case* (1602), 5 Rep. 117. The desirability of amending or unifying existing statutes and rules of law relating to the limitation of actions, and in particular the rules concerning acknowledgments, part payments, the disabilities of plaintiffs, the circumstances affecting defendants which prevent the periods of limitation from beginning to run, and the scope of the rules relating to concealed fraud will also be considered by the Committee.

Litigation.

Two recent letters to *The Times* contain suggestions designed to secure respectively a cheapening and a reduction in volume of litigation. One from the Acting Chairman of the Council of the London Chamber of Commerce advocates making the admission of documentary evidence compulsory, unless otherwise ordered by the court. The usefulness of this method of giving evidence in appropriate cases—such as the familiar adjourned summons asking the court to construe a will—is incontestable, but in many cases leave to cross-examine on an affidavit would have to be granted in the interests of justice, while the general adoption of the suggestion would deprive the court of one of the factors which afford it greatest assistance—the demeanour of witnesses in the box. It should be made clear, however, that the letter does not contemplate the total eclipse of oral by written evidence ; it states only that the number of witnesses could be reduced by the course advocated. The London Chamber of Commerce does not, it may be noted, favour the widening of county court jurisdiction. Judges of these courts already have their hands more than full, and the situation of many of the county courts in London are, it is said, " inconvenient to business men." The other letter refers to the large proportion of common law actions in the King's Bench Division for damages in respect of injuries sustained in road accidents, and suggests the application of such a measure as the Road Traffic (Compensation for Accidents) Bill to secure a reduction in the number of these " running down " cases. This, as compared with the strengthening of the King's Bench Division by the appointment of additional judges to deal with current business, is not a suggestion which we regard with favour. While a mechanically-propelled vehicle is admittedly a potentially dangerous thing, its use, not only by private owners but also by passenger and goods transport concerns, has become a practical necessity, and the introduction of a totally new factor which would relieve a plaintiff in an action for negligence from proving that allegation and throw on the defendant the onus of showing that he was not negligent (a far more difficult matter), is wholly unjustified. The exigencies of modern civilisation do not, in our view, render the less valuable the principle that a man is innocent unless proved guilty, and the proper way to deal with disputes arising from new factors is to increase the number of judges to meet existing requirements.

Trustee Securities.

In reply to questions relating to the advisability of introducing legislation to amend the rates governing the status of trustee securities and of setting up a committee to consider *de novo* in what securities trustees should be authorised to invest, and what procedure should be adopted for making additions to or deletions from the list of such securities, Mr. Duff Cooper, Financial Secretary to the Treasury, intimated in the House of Commons last Tuesday that while the matter would continue to engage the attention of the Chancellor of the Exchequer and would always be considered in the light of the financial position at the moment, it was not proposed to adopt either of the foregoing suggestions. A leading article in *The Times* of 3rd November refers to the various factors which have brought about a change in the position since the Trustee Act, 1925, and the Cave Commission of 1928—such as the reduction of the annual cost of the National Debt by conversion operations, the existence of cheap money, and the loss of trustee status by a large amount of railway securities. The maintenance of trustee status by payment of dividends out of reserves with the consequent weakening of the securities and various anomalies arising from the existence of a rigid list are also alluded to. " A view held

by experienced men," the article concludes, "is that a properly qualified body should be set up with discretionary power to revise the list of trustee investments from time to time. No difficulty should arise in securing the services of disinterested and competent persons to serve on such a committee." It is sometimes forgotten that greater elasticity in the matter of investment may well make the office of trustee more onerous even than it is at present. The greater the scope, the more apt are trustees to be urged to effect a change for the sake of a trifling increase in income, and to be blamed for a subsequent diminution of the same or for a consequent capital depreciation. Indeed, there is much to be said for cutting down the securities available to those of an absolutely first-class character, leaving it to the settlor or testator to enlarge the ambit of the investment clause, as, after all, it is always open to him to do.

Employment Frauds.

In passing sentence on persons found guilty of conspiracy to defraud and obtaining money by false pretences the Common Serjeant (Mr. Cecil Whiteley, K.C.) alluded to the fact that the time of the court had been taken up for days in trying employment frauds, which he described as "very mean frauds." The offences were in connection with coal exploits, district managers being employed by the prisoners on condition that they acquired shares in the concern as a guarantee of honesty. The Common Serjeant said that this was one of the worst cases he had tried and referred to former statements made by him that in bad cases of this kind persons found guilty would be sent to penal servitude. The cruelty of this type of deceit is particularly evident at a time like the present, when the prospect of employment and remuneration provides so tempting a bait for many.

Recent Cases.

Decisions lately given include that in *Re Midland (Amalgamated) District (Coal Mines) Scheme*, 1930: *Robert Holliday & Sons, Ltd.* v. *Executive Board* (78 Sol. J. 803), where it was held that "output" in relation to a coal mine—defined in s. 18, sub-s. (1), of the Coal Mines Act, 1930, as "the tonnage in coal raised and weighed at the pithead"—means the tonnage in coal as it comes out of the pit in the tubs before any dirt is picked, screened, washed, or otherwise taken out of the coal. The matter arose out of an arbitration between the company and the Executive Board and Quota Committee under the Scheme in question—the former's claim to remove dirt, etc., amounting to about 7 per cent. being negatived. The plaintiff in *Harman* v. *Layton-Bennett* (*The Times*, 1st November) was adjudicated bankrupt on 22nd August, 1932. The Court of Appeal allowed an appeal against the adjudication order, which was discharged, and a scheme was directed. In February, 1933, the debtor asked the Court of Appeal to vary a part of the scheme. The court refused, rescinded their previous order, restored that of August, 1932, and leave to appeal against the order of February, 1933, was refused. An appeal to the House of Lords was dismissed on the ground that, being a matter of bankruptcy, it was not competent [1934] A.C. 245. The plaintiff sought to raise the matter again before Bennett, J., who held that he had no jurisdiction to entertain the action at all. In *Re Ashton: Sier* v. *Ashton* (78 Sol. J. 803), Clauson, J., held, following *Salisbury* v. *Salisbury*, 6 Hare 526, that a covenant on the part of a settlor to pay a sum of money to the trustees of his daughter's marriage settlement, either during his lifetime or within two years of his death, had not been satisfied or performed by the fact that the daughter had become on the settlor's intestacy entitled to a share of his estate exceeding the sum in question. It was held also that the estate duty paid in respect of the sum in question came out of the general estate (see *Re Gray* [1896] 1 Ch. 620).

Treasure Trove.

Following upon the article which appeared in our issue of the 20th October (78 Sol. J. 745), under the heading of "Findings Keepings," there is a further side to the question which may be of interest.

The law of treasure trove and the right of the Crown to any "gold or silver in coin, plate or bullion, found concealed in a house or in the earth or other private place when the owner is unknown" is an interesting and very old-established branch of the law.

It must be noted with reference to the article referred to above that before the Crown can exercise its prerogative with regard to treasure trove, it must be shown that the treasure was hidden with "*animus revocandi*" and not merely abandoned.

The *primâ facie* presumption, however, is that it was hidden with "*animus revocandi*," and unless and until this presumption is rebutted the treasure will belong to the Crown: *Attorney-General* v. *British Museum* (*Trustees*) [1903] 2 Ch. 598.

As long ago as 1276 A.D., by the statute *De Officio Coronatoris* (4 Edw. I, st. 2), the coroners were empowered to hold a court to inquire into the subject of treasure trove.

"*De Thesauro invento debet coronator inquirere qui sciunt inventorem et similiter qui inde rectati sunt.*"

This statute has been repealed by the Coroners Act of 1887, but the position to-day is much the same as it was then, and the coroner's duty is "to go where the treasure is said to be found, to issue his warrant for summoning a jury to appear before him and to inquire of the treasure that is found who were the finders and is suspected thereof."

The law of treasure trove is very ably defined in the following *dicta* of Mr. Justice Day sitting at the Hereford Assizes in 1892 (see *Attorney-General* v. *Moore* [1893] 1 Ch., at p. 677): "The coroner is a very ancient and most responsible officer of the Crown and he has to inquire, amongst other things, into the dues of the Crown. . . . The Crown is not absolutely entitled to treasure trove. The Crown originally was entitled to all treasure trove—and it is now *primâ facie* entitled to it; but the Crown has in very many instances parted with that right by granting it to a subject."

It is clear, therefore, that although treasure trove belongs *primâ facie* to the Crown, the owner of the land in or upon which the treasure was found may have a better right to it, and it was decided by Stirling, J., in the above-quoted case that the question of right to treasure trove as against the Crown can only be decided by the High Court.

In these days, therefore, the coroner's powers are very limited, and the proceedings before him amount very largely to a mere formality.

The position of a finder of treasure trove as regards the criminal law is clearly defined. It is his duty to inform the authorities, and he is liable to prosecution if he tries to deal with the treasure without first observing the necessary formalities. The offence of concealing treasure trove consists in "wilfully, knowingly and unlawfully concealing the treasure found from the King knowing it to have been found": *R.* v. *Thomas and Willet* (1863), Le. & Ca. 313. It seems a pity that what a man has through his own efforts discovered should be forfeit to the State, but such is the law. It is the practice, however, for the Lords Commissioners of the Treasury to compensate finders of treasure.

The usual procedure is to return to them the objects which are not actually required for museums or other national institutions and pay them the full antiquarian value of the objects that are so required. This practice is only adopted where the finders have been prompt in their disclosure of the treasure. A further case of honesty being the best policy.

Mr. Frederick George Hunt, solicitor, of Cookham, Berks, senior partner in Messrs. Dixon & Hunt, solicitors, Gray's Inn, W.C., left £8,522, with net personalty £6,943.

Personal Searches at the Land Registry.

THE decision of the Chief Land Registrar to discontinue the production of documents relating to pending dealings on the occasion of a personal search raises afresh the vexed subject of the personal search.

Up to 1930 it was the common practice for solicitors to make their searches personally by attendance at the Registry—and not only once, but usually twice in each case. The registers would first be searched when the abstract of title or copy entries was received by the purchaser's solicitor, and again searched at the eleventh hour before completion (the later search being made to ensure that no one had crept in with an adverse application for registration between the time of the first search and the time of actual completion). Official searches—for which a charge was made—were a comparative rarity.

The personal search was a continuing and growing nuisance to the Land Registry. All attempts to effect speedy registrations were defeated by it. Officers working on pending dealings had the papers on which they were actually engaged taken from them at a moment's notice to be produced for a personal search. It affected all branches of the work of the Registry, such as the checking of transfers of part, the preparation and typing out of new entries, the amendment of the plan, etc., and in the case of large estates, where land was being sold in plots or developed for housing, the thing became a nightmare. There might be a dozen pending dealings with one title, and these cases might be distributed over different parts of the Registry and be wrenched away at frequent intervals for production to personal searchers. In some instances the papers were re-requisitioned for a fresh search within a few minutes of their re-distribution to the officers engaged upon the preparation of the new registers.

The new official search—brought into being under the Land Registration Rules of 1930, and best known as Form 94—was introduced for the express purpose of obviating the need for the eleventh hour search. It introduced a new feature—that of priority—giving the applicant three days in which to take advantage of such priority by lodging his application for registration. It was primarily to lighten the work of the solicitor, but incidentally it was to lessen the interference of work at the Land Registry caused by personal searches. It was attractive, for it threw the task of searching upon the officials of the Land Registry, gave the purchaser complete protection, and incidentally it was free of charge.

The new mode of searching rapidly gained popularity, but a considerable percentage of solicitors still failed to give up the practice of searching personally. This was partly due to lack of understanding of the advantages of the official search, partly to tradition, and, amongst a very small number of solicitors, to a spirit of rebellion at the State interference in conveyancing, which still remained after over thirty years of compulsory registration.

The Land Registry thereupon exerted a little pressure. The charge of one shilling was imposed for all personal searches, while official searches were free. Even this did not appreciably reduce the number of personal searches. Solicitors paid their shillings cheerfully and charged the amounts up to their clients. They reflected that other Government legal offices charged search fees, and they only wondered why the Land Registry hadn't made a charge for search long before.

The Land Registry has now gone further. They have refused to interfere with the work of the Registry by producing pending applications or the registers relating to them for personal searches, on the ground that such production stops work on the applications and delays their entry on the register (to which prior applicants for registration are entitled). Neither the register itself nor the plan referred to therein will be produced in such cases as they are in course of preparation in the new form or edition made necessary by the pending dealing or dealings.

This change of practice appears at first sight to be arbitrary, but clear reflection shows it to be a logical change.

A pending dealing is not a valid dealing with the registered land until it is completely registered (i.e., entered upon the register). Anything may happen to it after it has been presented for registration. It may be refused registration on the ground of some flaw or illegality, or it may be withdrawn before the registration is completed, and there can be no certainty that it affects the title until the transaction is actually entered on the register. No useful object is therefore served in producing such dealings for a personal search, for they do not affect the title until actually registered. All that they do is to give notice to an intending purchaser or chargee that certain dealings (which may or may not affect the property in which the searcher is interested) have been lodged for registration at the Land Registry, and that such dealings may or may not be ultimately registered.

A clearer understanding of the objects and advantages of the official search by solicitors would drive away much of the objection which still remains to what is one of the greatest helps to solicitors introduced within recent years.

Land certificates and charge certificates can be officially examined against the register and brought up to date at any time on being lodged at the Land Registry for that purpose. The Registry welcomes this and the service is free of charge. The date of the last examination is shown in the land certificate.

Official copies of the register can also be obtained at a very small cost, and these can be periodically brought up to date like the land or charge certificates.

All that a vendor has to do is to hand to a purchaser's or chargee's solicitor a plain copy of the entries taken from his land or charge certificate, or, preferably, an official copy of such entries. The purchaser's solicitor can then fill in his official search form (Form 94) asking that particulars may be given him of all entries affecting the land he is concerned with since the date when the land or charge certificate or copy entries were last examined with the official register and brought up to date. With such land or charge certificate or copy entries, coupled with the information obtained from the official search, the purchaser has then all the necessary information as to the present state of the register, without any need to see the register itself.

If he desires to search again immediately before completion, he can make a fresh official search on explaining shortly the reason for such further search being made. If there are any pending dealings the official search will disclose them, but only as pending dealings and not as matters actually affecting the title. The duty of disclosing such pending matters rests upon the vendor's solicitor and not upon the Land Registry. It will be appreciated that there may be pending applications affecting the title of which the Land Registry has no knowledge whatever—as they have not been lodged at the Registry for registration.

The practice of the Land Registry in cases of rapidly developing building estates is illustrative of the new practice advocated by the Registry in the interests of solicitors and their clients. The registered proprietor would, in ordinary cases, rarely see his land certificate, as before it returned to him after the completion of one dealing it would be required in the Registry for some fresh dealing with the land (such as a transfer of part). He is therefore invited to leave his land certificate permanently at the Land Registry during the development of the estate and receives in its place, free of charge, an office copy of the entries on the register, which takes the place in all respects of the land certificate, which can be brought up to date at any time and which can be sent by him to purchasers of plots to verify their abstracts

without fear of it being lost or destroyed—as it is not a document of title, but merely a copy.

In all respects there appears to be no need to-day for personal searches. They are faulty, inconclusive and cause inconvenience to the Registry. Solicitors who desire to have complete protection for their clients would do well to give up all personal searching and to rely instead upon the official search, which gives official proof of the present state of the registered title and a priority which the personal search does not afford.

Company Law and Practice.

Schemes of Arrangement.

THE monumental cases of *Re Dorman Long & Co. Limited* and *Re South Durham Steel & Iron Co. Limited*, are now reported [1934] 1 Ch. 635, and will repay the study of company lawyers. I do not propose to deal with them here and now at any great length, for there is a great mass of material which is no way concerned with principles, and which relates to circumstances which are unlikely to be repeated. But there are nevertheless certain points which Maugham, L.J., deals with in his judgment which should properly be brought to the notice of all who are concerned with the law relating to companies; particularly is it of interest in connection with the practical side of a scheme of arrangement under s. 153 of the Companies Act, 1929, such as the summoning of meetings, what information ought to be given by circular, and the use of proxies.

Expressed with the lucidity inevitable in the judgment of the learned lord justice, the judgment is one which should not be missed by anyone at all interested; it has the great advantage, from the point of view of the busy practitioner, that it can be read and appreciated almost to the full without the necessity of absorbing the mass of facts which were relevant to the case.

At pp. 655, 656 and 657 will be found a concise statement as to the duty of the court in considering schemes under s. 153. It must, to be fully appreciated, be quoted verbatim: "I will first state my view as to the function of the court in determining whether the compromise or arrangement should be sanctioned by the court. It is plain that the duties of the court are two-fold. The first is to see that the resolutions are passed by the statutory majority in value and number, in accordance with s. 153 (2), at a meeting or meetings duly convened and held. Upon that depends the jurisdiction of the court to confirm the scheme. The other duty is in the nature of a discretionary power, and it has been the subject of two decisions in the Court of Appeal, the first being the case of *Re Alabama, New Orleans, Texas & Pacific Junction Railway Co.* [1891] 1 Ch. 213, and the second the case of *Re English, Scottish & Australian Chartered Bank* [1893] 3 Ch. 385."

After a consideration of these two cases (to which I will refer later) the learned lord justice goes on, at the top of p. 657: "In my opinion, then, so far as this second duty is concerned, what I have to see is whether the proposal is such that an intelligent and honest man, a member of the class concerned and acting in respect of his interest, might reasonably approve."

Now let us return for a moment to the cases quoted, for there is a criticism of a statement by Lindley, L.J. (as he then was) in one of them which ought to be noted. In the earlier of those two cases Lindley, L.J., says ([1891] 1 Ch. 239): "The Court must look at the scheme, . . . and see whether the scheme is a reasonable one or whether there is any reasonable objection to it, or such an objection to it as that any reasonable man might say that he could not approve of it." My readers will note the insistence on reason in that passage; but Fry, L.J., in the same case, at p. 247, expresses himself rather differently: "It (the court) must be satisfied that the proposal was at least so far fair and reasonable, as that an intelligent and honest man, who is a member of that class, and acting alone in respect of his interest, as such a member, might approve of it."

Thus it will be seen that Lord Lindley and Fry, L.J., do not express themselves in quite the same way on this point; but Lord Lindley in the later case of the Chartered Bank expressly approved of Fry, L.J.'s observations in the *Alabama Railway Case*. He also added something which is useful to remember in connection with these schemes. "If the creditors," he says in [1893] 3 Ch. at p. 409, "are acting on sufficient information and with time to consider what they are about, and are acting honestly, they are, I apprehend, much better judges of what is to their commercial advantage than the Court can be. . . . While, therefore, I protest that we are not to register their decisions, but to see that they have been properly convened and have been properly consulted, and have considered the matter from a proper point of view, that is, with a view to the interests of the class to which they belong and are empowered to bind, the Court ought to be slow to differ from them."

Now, having examined these two cases, Maugham, L.J., adopts as his guide the observations of Fry, L.J., in the *Alabama Railway Case* and makes the statement at p. 657 which I have already quoted.

Next we may consider the question of proxies at meetings summoned by the court under s. 153. That section implies the right to vote by proxy, but, as the learned judge points out, it is silent as to the form which the proxy should take. He then deals with two Practice Notes, one by Vaughan Williams, J., in [1896] W.N. 56, and one by Swinfen Eady, J., in [1910] W.N. 154, and decides that s. 153 gives a general right of voting by proxy—stating that it is not open to the court by practice notes, having no statutory and little judicial force, to preclude persons who are given a statutory right to vote by proxy from so exercising their vote.

"The power to summon a meeting," continues the learned judge at the foot of p. 661, "involves a power to fix the date of the meeting, the chairman and the form of the notice. It may also involve a power to direct and settle a form of notice to be sent out at the expense of the company by the people who are asking the court to summon a meeting under the section. It does not, in my opinion, either expressly or by implication, direct that no other proxy form can be used. It should be added that some of the class may desire to approve the scheme, subject to a specific modification. I do not see why they should be precluded from doing that by a form of proxy which specifies the modification which they desire. In that case the directors or other persons to whom the proxies are to be given will apparently be entitled to use their own judgment in the matter, and that may be precisely the thing which the person giving the proxy does not desire."

The further point then arose as to whether a proxy form had to be deposited before the meeting, in accordance with the note to that effect on the form. The meeting was to be held on the 19th July, and a note on the form stated that the proxy must be signed and lodged with the secretary at the registered office of the company . . . not later than 12 noon on Saturday, the 15th July, 1933. With regard to this, his lordship stated that it was unnecessary for him to decide whether, when that form of proxy was used, it must be lodged by the time mentioned in the proxy or it would be bad, "though, I may add," he says, "that I see grave objection to the view that if lodged too late it will be bad . . . In my opinion proper proxies may be used at the meeting, whether lodged before it or not."

Then there was a question as to whether persons who had got court proxies in their favour were bound to vote, or could, if they so desired, abstain. Maugham, J., on that point says that he thinks that directors, who, pursuant to an order of the court, get proxies for or against the scheme, have no

option as to whether or not they will use them. As a result of the order those who are appointed proxies must use them, and there is no discretion in them as to whether they will do so or not.

Lastly, there was a great deal of discussion in the course of the case as to the circulars sent out with the notices summoning the meeting; most of this, of course, is relevant only to the facts of the particular case; and I do not intend to go into those facts here and now. But the judgment does contain passages relating to the circulars which are of more than merely particular interest, and I would direct my readers' attention to them.

"It is perhaps not unfair to say," observes the learned lord justice at p. 657, "that in nearly every big case not more than 5 per cent. of the interests involved are present in person at the meeting. It is for that reason that the court takes the view that it is essential to see that the explanatory circulars sent out by the board of the company are perfectly fair, and, as far as possible, give all the information reasonably necessary to enable the recipients to determine how to vote. I am assuming, of course, that, following the usual procedure, explanatory circulars are sent out, because, I may observe, there is nothing in the Act to render them essential."

Again, at p. 665: "The practice being to send out an explanatory circular in such a case, it is, in my opinion, the duty of the court very carefully to scrutinise the circular when the matters involved are matters of considerable difficulty and doubt."

His lordship then points out that in cases of great complexity it is not possible to state every relevant fact; and then he makes the interesting suggestion that, in cases where it is impracticable to furnish such a statement of all the main facts as would enable the members of a class to exercise their judgment on the proposed scheme, the class concerned might appoint one or more persons on their behalf to investigate, and report to them. The circular might then consist merely of the report.

In this short space I have endeavoured to reproduce for my readers' benefit some of the more important of the generalisations contained in this judgment, but I would unhesitatingly recommend the reading of every word of it.

A Conveyancer's Diary.

Trust Instruments varying Statutory Provisions.

Last week I referred to a recent case in which Clauson, J., had refused to apply s. 31 (1) (ii) of the T.A., which directs that when a person contingently entitled under a trust has not attained a vested interest on attaining the age of twenty-one years, the trustees shall thenceforth pay the income to him until he either attains a vested interest therein or dies. The ground of the decision was that the directions in the subsection were made subject to "a prior interest" and as there was a trust to accumulate, there was a "prior interest."

I am not for the moment concerned with the grounds of that decision. I am only dealing with the effect of s. 69 (2), which in effect provides that all powers conferred on trustees by the Act are in addition to the powers given by the trust instrument, and apply only so far as a contrary intention is not expressed in that instrument.

I pointed out last week that s. 69 (2) applied to powers only, not to directions given to trustees by the Act, or to powers given to persons other than the trustees or to indemnities given to trustees.

In addition to s. 31 (1) (ii) there are other instances where s. 69 (2) does not apply, and where the Act prevails notwithstanding any contrary intention expressed in the trust instrument.

Although, perhaps, not very important, these instances may be worth examining, and I propose to mention some of them. Take s. 22 (4). It is there enacted in effect that trustees may in their absolute discretion from time to time but not more than once in every three years in the absence of special dealings with the trust property or other cause making a more frequent exercise of this right reasonable, cause the trust accounts to be audited by an independent accountant and shall produce such vouchers and give such information as the auditor may require. The subsection proceeds: "and the costs of such examination or audit including the fee of the auditor shall be paid out of the capital or income of the trust property or partly in one way and partly in the other as the trustees in their absolute discretion think fit, but in default of any direction by the trustees to the contrary in any special case, costs attributable to capital shall be borne by capital and those attributable to income by income."

The provision here regarding costs is directory and not subject to the provisions of s. 69 (2). It is not possible, therefore, for a settlor to make any direction which would hamper the discretion of the trustees in the matter, or if the trustees "in any special case" (whatever that means) should not exercise the discretion alter the method of the incidence of the costs mentioned in the subsection. For example, a settlor or testator could not direct that all such costs should be paid out of income or that one-half should be paid out of income, and the other half out of capital. I do not see why a settlor or testator should be deprived of the right of making directions in the matter if he wished to do so.

Another instance is afforded by the provisoes to s. 32 (1). By that subsection trustees are given a wide power of advancement out of capital.

Then follow the provisoes:—

(*a*) The money so paid or applied for the advancement or benefit of any person shall not exceed altogether in amount one-half of the presumptive or vested share or interest of that person in the trust property; and

(*b*) If that person is or becomes absolutely and indefeasibly entitled to a share in the trust property the money so paid or applied shall be brought into account as part of such share; and

(*c*) No such payments or application shall be made so as to prejudice any person entitled to any prior life or other interest, whether vested or contingent, in the money paid or applied unless such person is in existence and of full age and consents in writing to such payment or application.

Now, the power of advancement may be taken away altogether by an express provision to the contrary contained in the trust instrument, but it would seem that if that is not done (and a settlor will seldom desire to do it) the settlor cannot make directions contrary to the directions in the provisoes or any of them. It might well be that a settlor would wish that more than one-half might be advanced, or that in certain cases the whole or part of the amount should not be brought into hotchpot on a division of the trust property or even that an advancement might be made without the consent of any person to whom he had given a prior life interest. It appears that the settlor cannot do any such thing for the provisoes are directory, and so s. 69 (2) does not apply to make them subject to any contrary intention expressed in the trust instrument.

Then, again, take s. 8 of the T.A., 1925. That is a familiar section. It enacts that a trustee lending money on the security of any property on which he can properly lend shall not be chargeable with breach of trust by reason only of the proportion borne by the amount of the loan to the value of the property at the time when the loan was made if it appears to the court—

(*a*) that in making the loan the trustee was acting upon a report as to the value of the property by a person whom he reasonably believed to be an able practical surveyor or

valuer instructed and employed independently of any owner of the property . . . ;

(*b*) that the amount of the loan does not exceed two-thirds of the value of the property stated in the report ;

(*c*) that the loan was made under the advice of the surveyor or valuer expressed in the report.

This section is an indemnifying enactment and does not come within the scope of s. 69 (2), and applies whether a contrary intention is expressed or not. That does not seem to be right.

For example, suppose a testator directs that in lending money on mortgage of real or leasehold property the trustees are not to advance more than one-half of the value—or, say, provides that for the purposes of the trust s. 8 (1) (*b*) shall be deemed to read as though "one-half" were substituted for "two-thirds." Nevertheless, it would appear that if the trustees advanced two-thirds they would be entitled to the benefit of the indemnity afforded by the section. I do not see why the expressed direction of the testator should not be respected and the indemnity given by the section to the trustees only operate to protect them if that is done.

There are many other instances that might be given but these will suffice.

I do not say that any are of great practical importance, but it is as well to bear in mind the limited application of s. 69 (2).

Landlord and Tenant Notebook.

Absconding Tenants.

THE title is suggested by the preamble to s. 16 of the Distress for Rent Act, 1737, which commences: "And whereas landlords are often great sufferers by tenants running away in arrear," and which, as amended by the Deserted Tenements Act, 1816, provides, given certain conditions, a cheap and efficient remedy for the suffering in question. The conditions are: the rent must be at least three-fourths of the full yearly value ; the tenant must have deserted the premises, leaving them uncultivated or unoccupied ; a half-year's rent must be owing ; there must be insufficient distress to satisfy the arrears. The remedy is: a request to two justices to view the premises ; they do so, and fix a notice announcing their intention to return for a second view on a specified date, not less than a fortnight thence ; if on that occasion no one turns up with the rent and there is insufficient distress, they put the landlord in possession, and the lease "shall from thenceforth become void." In London the procedure is slightly different ; one magistrate will do, and the more spectacular part of the business is performed by a constable.

These enactments virtually import into every lease a forfeiture clause, making it voidable if the tenant abandons the premises, owes a half-year's rent, and there is not enough to distrain upon for the amount owing.

The remedy is indeed one that is easily applied, for the landlord does not even have to make his complaint on oath, as was pointed out in *Basten* v. *Carew* (1825), 3 B. & C. 649. In that case an evicted tenant of a farm sued the justices, but it was held that no action lay against them as they had followed the procedure prescribed ; but if the landlord's request was not founded on fact, he would be liable to an action on the case.

The drawbacks are, of course, the requirement of not less than a half-year's rent due, and that of insufficiency of distress ; for a half-year's rent may mean a lot to a landlord, and if the premises are left locked up, how is he to say what there is in the way of distrainable matter, or how is he to distrain it ? True, when insufficiency of distress has to be proved, as in the case of forfeiture under the Common Law Procedure Act, 1852, s. 210, no actual levy is necessary (see *Rickett* v. *Green* [1910] 1 K.B. 253) ; but proof may not be easy, particularly if the premises are a dwelling-house ; the draftsmen of the Distress for Rent and Deserted Tenements Acts were probably thinking primarily of farms, as witness the word "uncultivated."

If the tenancy be a periodic one, a landlord may seek to cut his loss by giving a notice to quit ; and then his position depends, if he cannot find the absconding tenant, on whether the agreement provides for a suitable method of service, such as by leaving it at the premises or sending it to the last known address. If it does not, it will not be possible to determine the tenancy in this way. *Doe d. Buross* v. *Lucan* (1804), 5 Esp., is the authority which laid it down that the notice must be handed to the tenant or his agent, otherwise it might be possible to turn a tenant out by a trick. The same applies to the exercise of an option to determine a lease for a term of years ; in *Hogg* v. *Brooks* (1885), 14 Q.B.D. 475, and 15 Q.B.D. 256, C.A., the plaintiff had let premises, from 1870, for a term of twenty-one years with an option to put an end to the demise at the end of the first fourteen years by delivering to the tenant, his executors, administrators or assigns, six calendar months' previous notice in writing ; the tenant had soon mortgaged his lease to the defendant by sub-demise and emigrated ; in November, 1884, the plaintiff sent notices in writing to determine the lease to the tenant at two addresses and to the defendant ; but as the latter did not belong to either of the categories so elaborately specified, the notice was ineffective.

When premises are vacated by obviously insolvent tenants the landlord is naturally tempted to take possession without any formalities. The danger is, of course, that the tenant, or perhaps his representative, may turn up and cause trouble, especially serious trouble if the premises have been let to someone else. Without discussing the numerous authorities on the doctrine of surrender by operation of law, it seems safe to say that if there is any action on the tenant's part which may be construed as an offer to surrender, a court of law will do its best so to construe it. Tenants in the circumstances mentioned frequently send the key of the place to the landlord or his agent ; keys being symbolical of possession, the landlord may accept them without qualification, and thus determine the tenancy ; or he may accept them "without prejudice," thereby refusing the offer ; while if he signifies neither acceptance nor refusal, their presence on his premises, as was held by Erle, C.J., in *Phene* v. *Popplewell* (1862), 12 C.B. (N.S.) 334, means a continuing offer, "and as soon as the landlord did an act which would have constituted him a trespasser if he had not exercised the option thus given to him, that afforded ground for the inference that he assented to the tenancy being put an end to."

Our County Court Letter.

THE ARBITRATION ACTS, 1889 TO 1934.

Two recent cases illustrate the effect of an arbitration clause in ousting the jurisdiction of the courts. In *Norris* v. *Mansfield Labour Club and Institute, Ltd.*, at Mansfield County Court, the claim was for (1) a declaration that a purported expulsion of the plaintiff was null and void ; (2) an injunction restraining the club from interfering with the plaintiff's rights as a member ; (3) £1 damages and costs. A preliminary objection was taken that the court had no jurisdiction, as the defendants (in common with all societies registered under the Industrial and Provident Societies Acts) had a rule that such disputes should be referred for arbitration to the executive of the Working Men's Club and Institute Union. In a reserved judgment, His Honour Judge Hildyard, K.C., remarked that the plaintiff could not question the committee's power to expel him, although he could claim that they had not exercised

their power properly. It was held that the issue constituted a dispute, within the arbitration rule, and judgment was therefore given for the defendants, with costs.

In *Smith Bros.* v. *Marsh & Baxter, Ltd.*, at Stroud County Court, the claim was for £22 13s. as the balance due for pigs supplied. The defendants applied for a stay of proceedings, on the ground that an issue had arisen (as to whether the pigs were fat or soft) and should be settled by arbitration, as provided by the contract. The plaintiffs contended, however, that the prices were fixed by a schedule, and, as the contract was complete, there was nothing about which to arbitrate. The pigs were accepted by the defendants, and had been graded and classed with their approval, and that classification could not be altered. No variation could therefore be made in the scheduled price, but the defendants had nevertheless purported to make certain deductions, without the consent of the plaintiffs. Their correct procedure would have been to pay the contract price, and then (if a latent defect were discovered) to apply for an allowance or partial repayment. His Honour Judge Kennedy, K.C., ordered the proceedings to be stayed, with costs to abide the result of the arbitration.

COST OF EXTENSION OF WATER MAIN.

In a recent case at Stafford County Court (*Stafford Rural District Council* v. *Jordan*) the claim was for £4 4s. 6d. in respect of an extension of a water main. The case for the plaintiffs was that: (1) certain property-owners had applied for the extension, and each was asked to pay the difference between 5 per cent. of the cost of laying the main and the amount received in rents over a period of twenty years; (2) these terms were set out in a letter, on the 21st November, 1929, to which the defendant had replied: "I am quite willing to pay my share"; (3) when asked to sign an agreement to the above effect, in 1933, the defendant alone had refused to sign; (4) the total cost of the main was £589 (5 per cent. of which was £29 9s.) and the defendant's portion was worked out on the basis of the rateable value of his property; (5) the amount claimed was for the period 1st January, 1931, to 31st March, 1933. The defendant disputed the handwriting on his alleged letter (dated the 25th November, 1929) which had not been written by him or his wife. He also contended that the late clerk to the council had advised that there was no obligation on owners to contribute, and therefore no one was asked to sign an agreement until three years later. His Honour Judge Ruegg, K.C., held that the defendant's signature had not been proved, and judgment was given in his favour, with costs.

RECENT DECISIONS UNDER THE WORKMEN'S COMPENSATION ACTS.

INCAPACITY FROM DERMATITIS.

The principle of *Short* v. *Parker* (1926), 19 B.W.C.C. 190, was recently followed at Birmingham County Court in *Evans* v. *Willmot Breeden Ltd.* The applicant's case was (1) at the age of twenty-six (never previously having had a rash) he entered the respondents' employ in December, 1933, as a nickel plater at a wage of £2 1s. 7d.; (2) six weeks later he developed a rash, and was given drier work, but he gave notice of incapacity on the 16th February, 1934; (3) on the 16th March the certifying surgeon stated that the applicant was totally incapacitated by dermatitis as from the 14th February, and the respondents' appeal was dismissed by the medical referee on the 28th March, subject to the qualification that the applicant was fit for any work not involving wet handling; (4) on the 25th March the applicant signed on at the employment exchange after the dermatitis had passed off. The respondents denied liability, on the ground that the applicant's incapacity had ceased. His Honour Judge Dyer, K.C. (in a reserved judgment) observed that the applicant had an idiopathic constitution, and a tendency (which had hitherto been dormant) was lighted up by the conditions of work, which caused dermatitis. The latter, however, was not caused by "long continued exposure," within the meaning of the Workmen's Compensation (Industrial Diseases) Consolidation Order, 1929, Art. 2, and a further attack (in June) was not connected with the respondents' employment. An award was therefore made of £1 2s. 10d. for total incapacity from the 14th February to the 24th March inclusive, after which date the applicant was not entitled to compensation or to a declaration of liability. As the applicant was bound to take proceedings, and there had been no payment into court, he was entitled to costs on Scale B.

LIABILITY FOR ACCIDENT IN THRESHING.

In *Leeder* v. *Cooper*, at Lowestoft County Court, an award was claimed in the following circumstances: (1) The applicant had been offered two days' work at stacking by the respondent, who had made no mention of payment; (2) the recognised scale was 6s. a day, and the applicant was paid 6s. for the part of the day he worked, but (having fallen off a straw stack) he had injured his back and become totally incapacitated. The respondent's case was that the usual practice in threshing was to pay 6s. for the job (however long it lasted), and that the threshers were not workmen, but independent contractors. His Honour Judge Herbert Smith held that there was no evidence of the latter contention, as the threshers were under the direction of the farmer. The applicant was therefore an ordinary farm labourer, and (being paid at the ordinary rate) he was entitled to an award of 19s. 6d. a week. It was pointed out for the respondent that he was a tenant farmer (working about sixty acres), and that he was unable to pay the compensation. His Honour remarked that it was an evasion of the Act to employ people, without being insured, and that there was no jurisdiction to deal with the respondent's inability to pay.

THIRD HANDS ON THRESHING MACHINES.

Reserved judgment was recently given at Halesworth County Court in *Mower* v. *Mayhew and Barham*, in which an award was claimed in the following circumstances: (1) the applicant, while sweeping corn into the drum of the second respondent's threshing machine, had slipped and received injuries—resulting in the amputation of a leg; (2) he had been paid for the morning's work by the first respondent, upon whose farm the accident happened. The first respondent's case was that (*a*) the applicant was one of a number of men who "followed the machine" from farm to farm, and were selected by the driver or the feeder of the machine, (*b*) the second respondent (the owner of the machine) was therefore, the employer, as shown by the facts that (i) the applicant was engaged by the driver, as agent for the owner, (ii) the applicant had a recognised position, viz., "third hand," (iii) he actually worked on the machine, (iv) the effective control over the applicant was exercised by the two men on the machine. The second respondent denied that there was a contract of service (between him and the applicant) as (*a*) the driver had no authority to engage a "third hand," (*b*) the latter position had not existed, since the abolition of red flags in front of traction engines, (*c*) the farmer did not necessarily employ the man selected by the driver, but—once selected—he was under a contract of service with the farmer, by whom he was paid. His Honour Judge Hildesley, K.C., held that (1) the applicant was employed by the first respondent; (2) as his average weekly wages had been 30s., he was entitled to an award of £1 from the 21st October, 1933; (3) the second respondent was entitled to costs against the applicant, who was entitled to recover his own (and the second respondent's) costs from the first respondent. A stay of execution was granted, on payment into court of £50 within seven days.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Sale of Coal to Miners.

Q. 3069. A colliery company have always supplied coal to their workmen at 5s. per ton. This practice is adopted throughout the South Wales Coalfield. The weighbridge at the colliery has been there for many years, and was constructed when horse traffic was employed. Motor traffic has taken the place of horse traffic, but the weighbridge is not sufficiently large to weigh the lorries containing the workmen's coal. The colliery company wish to avoid having to go to the expense of providing a new weighbridge for a small matter of this kind, and it has been agreed with the workmen's representatives that the average weight of a conveyor tram be taken and that the contents of these trams be tipped into a lorry and called loads and not tons, and charge the workmen 5s. per load. A conveyor tram contains about 21 cwt. This suggestion has been put to the local inspector of weights and measures, and he says that the disposal of coal to the workmen in this manner would amount to an infringement of the law. As you are aware, the Weights and Measures Act, 1889, s. 20, provided that all coal should be sold by weight only, except where by the written consent of the purchaser it is sold by boat load or by waggons or tubs delivered from the colliery into the works of the purchaser. In this case the workmen agree to take a conveyor tram which contains 21cwt. to be put into a lorry at the colliery and to be conveyed to their homes, and they will pay for it at the rate of 5s. per load or 21 cwts. We shall be glad to have your views whether, if this method is adopted, there is any infringement of the law.

A. The transactions do not come within the exception (in s. 20) and the inspector's contention is correct. The method at present proposed will therefore be an infringement of the law. Compare *Phillips* v. *Parnaby* [1934] 2 K.B. 299, which (although decided on different points from the present case) shows that the Acts are strictly interpreted.

Settlement by way of Trust for Sale—Effect of Failure to observe T.A., 1925, s. 35.

Q. 3070. Upon the marriage of A and B in 1904 certain funds were assigned unto trustees in trust for A for life, then B for life, and after the death of the survivor in trust for the children or remoter issue of the marriage. The trustees were given power to invest the trust funds in the purchase of freehold property upon trust to sell the same and stand possessed of the proceeds upon the trusts of the settlement. In 1910 freehold property was purchased by the trustees and conveyed to them upon trust for sale according to the terms of the settlement. In 1914 one of the trustees retired from the trust, and in 1929 another trustee retired from the trust and a fresh trustee was appointed. Two more trustees are now to be appointed, and we shall be obliged if you will advise on the following points:—

(1) On the appointment of the new trustee in 1929 only a simple deed of appointment was executed which contained a declaration that the trustees should stand possessed of the investments (including the freehold property) upon the trusts of the settlement. Was this sufficient to vest the freehold property in the new trustee (s. 40, Trustee Act, 1925), or should there have been a separate appointment as required by s. 35, Trustee Act, 1925?

(2) Should the appointment of new trustees at present contemplated be done by a simple appointment, or is it necessary to have a separate deed relating to the freehold property?

(3) Some of the trust funds are invested in mortgages. Will the simple appointment of new trustees be sufficient to vest the mortgage terms in the new trustees?

A. (1) We do not think that the freeholds vested. The declaration (even if made by the appointor) was not an express vesting declaration within T.A., 1925, s. 40 (1) (*a*), seeing that it did not say that the property was to vest. Nor, in our opinion, was an implied vesting declaration imported into the deed under T.A., 1925, s. 40 (1) (*b*), as the appointment was in respect of the settlement and not in respect of the conveyance upon trust for sale. Further, we doubt whether an express or implied vesting declaration contained in an appointment in respect of the settlement could vest property subject to the trust for sale. There should, in our view, have been two appointments in accordance with T.A., 1925, s. 35.

(2) In our opinion two documents are needed. The settlement and conveyance upon trust for sale are effected by two documents. Even if not essential the settlement should be kept off the title, though this in view of the appointment of 1929, may now not be possible.

(3) No. See T.A., 1925, s. 40 (4) (*a*). As the mortgage debts (as distinct from the securities) will pass by an express or implied vesting declaration it should be made clear that the express or implied vesting declaration is not to extend to such debts.

Assurances of Freeholds subject to a Free Rent payable to the Lord of the Manor—Registration with Steward under L.P.A., 1922, s. 129.

Q. 3071. Property comprising a farm was devised to A under the will of B, and an assent to the devise was signed by the personal representatives of B on the 2nd December, 1929. A has contracted to sell the property upon which there is a free rent payable to the lord of a manor, which has been disclosed. The property has been dealt with as freehold and conveyed as such since the year 1863. The purchaser's solicitors contend that the assent should have been registered under the provisions of s. 129 of the L.P.A., 1922, as the free rent constitutes a manorial incident. The vendor's solicitors contend that this is not necessary. (1) Is the property still subject to a manorial incident? (2) Should the said assent have been registered? (3) If the answers to (1) and (2) are in the affirmative, what is the position with regard to the legal estate?

A. (1) We think so, a free rent payable to the lord would appear to be a manorial incident (L.P.A., 1922, s. 128 (2)). (2) No. The land is not "enfranchised land." (3) The legal estate passed properly by way of the assent. There are in various parts of the country (and to the writer's personal knowledge in Kent) quit rents issuing out of land habitually regarded as ordinary freeholds payable to the local lord. It is not the practice to register assurances of such lands with the steward seeing that the lands were never copyholds or regarded as such, and thus are not now "enfranchised lands" within L.P.A., 1922, s. 129. See *ibid.*, s. 128 (1) for definition of "enfranchised lands," and s. 189 for that of "copyhold land."

To-day and Yesterday.

5 November.—Sir William Ashurst died at his residence at Waterstock on the 5th November, 1807, eight years after his retirement from the King's Bench. A contemporary thus described him : " To a most benevolent heart, this learned judge adds the polished manners of a gentleman and a degree of professional erudition that has ever placed him in the first rank of Westminster Hall." His countenance, however, had a lank gravity which inspired the future Lord Chancellor Erskine to the couplet :—

" Judge Ashurst with his lantern jaws
Throws light upon our English laws."

6 November.—On the 6th November, 1811, the case of Dr. Edward Sheridan and Thomas Kirwan, charged with offences in connection with a petition for the repeal of the laws against Roman Catholics, opened in Dublin with an ingenious attempt to challenge a member of the Grand Jury as being " unduly favourable to our sovereign lord the King," in that he was a police magistrate for the City of Dublin. The case lasted till February. Sheridan was acquitted. Kirwan, found guilty after three months of legal proceedings, was lectured by the Chief Justice and fined one mark.

7 November.—Fortunately Lord Chancellor Nottingham was in the habit of taking the Great Seal to bed with him ; otherwise on the 7th November, 1677, it would probably have been stolen. About one in the morning, " the Lord Chancellor Finch his mace was stole out of his house in Queen Street. The Seal laid under his pillow, the thief missed it. The famous thief that did it was Thomas Sadler, soon after taken and hanged for it at Tyburn."

8 November.—On the 8th November, 1574, Mr. Justice Wray was appointed Chief Justice of the Queen's Bench. His descent was not distinguished, his father being seneschal of Coverham Abbey in Yorkshire. There is a story that being on circuit in the north, he sent for his parents who, not knowing of his promotion, protested that they never spoke a word against my lord judge in their lives. When they arrived, they did not recognise him, and he asked them about their children. " Had you never any else ? " he asked at last. " Yes," replied his father, " one proud boy that went away from me." " I am that proud boy," said the judge. So, says the writer of the story, he " like another Joseph was made known to his father whom he owned before them all." A pretty story, even if it be not true.

9 November.—In 1864, Berryer, the leader of the French Bar and one of the greatest advocates of all time, visited England. On the 9th November, Lord Brougham took him to the Court of Queen's Bench at Westminster where everyone rose to receive him, the Lord Chief Justice giving him a seat beside him. That night he was entertained to dinner in Middle Temple Hall, the Attorney-General proposing the health of " the illustrious citizen, the eminent patriot, the great orator, the peerless advocate."

10 November.—After his two sensational escapes from Newgate, Jack Sheppard was brought into the Court of King's Bench on the 10th November, 1724. His exploit had made him famous, and a great multitude assembled outside Westminster Hall. The judges were anxious to know how he had got out and who helped him, but he replied that he had not had the least assistance from anyone but God Almighty. Mr. Justice Bowys severely reprimanded him for what he stigmatised as profanity, and, having delivered a long harangue, pronounced sentence of death. On his way back to prison, Jack was taken before Lord Chancellor Macclesfield, who was curious to see him.

11 November.—On the 11th November, 1855, Lord Truro, formerly Lord Chancellor, died at his house in Eaton-square.

The Week's Personality.

Only one former solicitor has attained the Woolsack—Thomas Wilde, who became Lord Truro. In 1805 he was admitted an attorney. In 1817 he was called to the Bar. In 1824 he took the coif. In 1846 he became Chief Justice of the Common Pleas. In 1850 he was appointed Lord Chancellor. Perhaps this was a pity, for his pre-eminence at the Common Law Bar, crowning the experience of a lifetime, had peculiarly fitted him for the post he resigned when he accepted the Great Seal. With Chancery business he was wholly unfamiliar, and at the age of sixty-eight it cost him a very severe mental effort to harness himself to the intricacies of equity. Intense study made him a competent Chancellor, but it broke down his health, and the fall of the government, removing from him the burden of office, came as a relief early in 1852. While he held his post he had done much for law reform ; he simplified the payment of the fees of the Court of Chancery and was largely instrumental in the creation of the Court of Appeal in 1851. The capacity to which he raised himself as an equity judge may be measured by the fact that only one of his decisions was appealed from, and it was affirmed. His former colleagues at The Law Society marked their admiration for him by having his portrait painted and placed in their Hall.

Falling from Grace.

Fortunately, the recent spectacle of a barrister exchanging the Bar for a prison cell is so extraordinary and rare that few precedents can be found for it. The strangest case was probably that of the notorious " Jim the Penman," James Townsend Saward, who was called to the Bar at the Inner Temple in 1840, and for some years practised law and forgery at his chambers at No. 4, Hare-court, acquiring some reputation as an able advocate. His career ended in 1857, when he was sentenced to transportation for life. He was a specialist in cheque frauds, and once very ingeniously defrauded a solicitor named Turner by means of a blank cheque stolen from him. An accomplice named Hunter visited Turner and asked him to collect a debt of £103 15s. 6d. from another accomplice. The money was promptly paid and the unsuspecting solicitor, having deducted his charges, sent his supposed client a cheque for the amount received. Saward was now able to forge his signature to a cheque for over £400. The eight fifty pound notes received were cashed on a special journey to Hamburg. The technique of the gang was perfect. While practising in Hare-court, Saward was concerned as a receiver in the Gold Bullion Robbery, buying 700 ounces of gold.

Indistinct Judges.

A correspondent in *The Times* complains, not altogether without justification, of the indistinctness of some of the judges and reminds them of the mediæval precept to " speak so that all concerned may hear." One of the less obvious dangers of inaudibility in a judge is illustrated by a story told of Erskine at the Bar. He was appearing for a defendant against whose case the judge had formed a very strong opinion. The summing up, however, was scarcely audible to the jury, for the learned occupant of the Bench was very old, and the twelve simple laymen obviously found it wholly unintelligible. Erskine realised this and, sitting on the silks' bench in full view of the jury, nodded with obvious approval at all the remarks which fell from the judge. The result was that the puzzled jury imagined they had been directed to find for the defendant and gave a verdict accordingly. In earlier times, it seems to have been considered that a judge who could not be heard might as well not speak at all, for of Browne, J., in 1559, it is recorded that " he did not argue at all, because he was so old that his voice could not be heard."

Reviews.

The Local Government of the United Kingdom (and the Irish Free State). Ninth Edition. 1934. By JOHN J. CLARKE, M.A., F.S.S., of Gray's Inn and the Northern Circuit, Barrister-at-Law. Demy 8vo. pp. xiv and (with Index) 738. London: Sir Isaac Pitman & Sons, Ltd. 12s. 6d. net.

This useful book has been brought down to date by a complete revision of the text necessitated by the Local Government Act, 1933, and the incorporation of the legislation of the Parliamentary Session, 1934. Chapters have been added on the History of Local Government and on Town and Country Planning, while the chapter on Housing has been re-written and now incorporates the changes brought about by the Housing Act, 1930. After a general indication of the relation of local government to the state, the various local authorities are treated in detail, the succeeding sections dealing with local government services—Public Health, Transport, Education, Public Assistance. These are followed by sections on Local Finance and Special Legislation relating to London, Scotland, Northern Ireland and the Irish Free State. The foregoing indicates the comprehensive character of the work. The reader's convenience is studied and ease of reference facilitated by the use of heavy type for headings in the text. The work has been designed to meet the requirements alike of the general reader and local government administrators and needs of students have been kept in view.

The Complete Law of Housing. By H. A. HILL, B.A., of Gray's Inn, Barrister-at-Law. Second Edition. 1934. Royal 8vo. pp. xxxix and (with Index) 584. London: Butterworth & Co. (Publishers), Ltd.; Shaw & Sons, Ltd. 25s. net.

There are not many junior practising barristers of whom it can be said that a text-book has promptly brought them fame. The learned author of the volume before us unquestionably belongs to this limited class, for the first edition of this—the recognised standard work on Housing Law—deservedly brought its reward in a rapid exhaustion of the supply and a demand for more. The new edition continues the excellent work shown in the preparation of its predecessor: and it is no exaggeration to say that no more complete and exhaustive a review of a particular legal subject has been placed at the service of the profession for many years past. Since the first edition appeared there have been important legislative and judicial happenings the results of which have been embodied in the new edition. Perhaps the most useful feature of the volume is the new introductory note on Clearance Area Inquiries, which not only sets out the procedure at these inquiries, but also deals fully with the statement of their case by both the local authority and the objector and provides valuable hints as to the nature of the evidence required and its manner of presentation. A large amount of new material is necessarily embodied and numerous helpful cross-references have been inserted. All the new Statutory Rules and Orders will be found in the Appendices—the whole volume containing a very complete equipment for dealing with the variety of difficult problems which local authorities and property-owners alike encounter.

Lectures, Reading and Examinations. By T. R. PARSONS, Sidney Sussex College, Cambridge. 1934. Crown 8vo. pp. ix and 42. Cambridge: W. Heffer & Sons, Limited. 1s. 6d. net.

This brochure, while intended primarily for University students, will be found useful and suggestive for law students and others who have to undergo an official inquiry into the extent of their knowledge, and in preparation therefor have to attend lectures and take notes. While very practical on his special topic, the author has not forgotten that the normal examinee is human who will therefore welcome the hint that "for short periods of relaxation there is nothing to beat a visit to the theatre, or a novel to one's taste, and the latter has the advantage, if well written, that it will unconsciously improve one's own style of writing and get one away from the usually stilted language of a technical subject." Very excellent advice.

The Law of Arbitration and Awards in a Nutshell. By J. A. BALFOUR, of the Middle Temple and the South-Eastern Circuit, Barrister-at-Law. 1934. Demy 8vo. pp. v and (with Index) 127. London: Sweet & Maxwell, Ltd. 6s. net.

The unique merits of the Nutshell series have been frequently praised in these columns. The present contribution to the series is no exception to the rule of compression without omission and systematisation without dulness which has so far characterised the series. The statement of a large body of case law and statute law in a small compass is helpful not only to students but also, where occasional quick reference is needed, to practitioners, and the usefulness of this work is enhanced by an appendix containing both the Arbitration Act, 1889, and the Arbitration Act, 1934, as well as ss. 88 to 97 of the Supreme Court of Judicature (Consolidation) Act, 1925. The summary of the modes of reference under statutes other than the Arbitration Act, 1889, is particularly commendable. In view of the number of cases and statutes cited in the text it might be well to include an index of cases and statutes in the next edition.

Outlines of Local Government of the United Kingdom (and the Irish Free State). By JOHN J. CLARKE, M.A., F.S.S., of Gray's Inn and the Northern Circuit, Barrister-at-Law. Eleventh Edition, 1934. Crown 8vo. pp. x and (with Index) 308. London: Sir Isaac Pitman & Sons. 5s. net.

The latest edition of this popular manual incorporates the Local Government Act, 1933, which came into operation on 1st June, 1934. The new chapter on traffic regulation introduced into the tenth edition has been extended owing to the amendments contained in the Road Traffic Act, 1934, and the chapter on children and young persons has been completely re-written in order to bring it into line with the consolidating legislation of 1933. As a short introduction to the larger work on the same subject by the same author, it serves an excellent purpose.

Books Received.

Maintenance and Desertion. By E. J. LIDBETTER. 1934. Crown 8vo. pp. viii and (with Index) 180. London: Law and Local Government Publications, Limited. 7s. net.

The Lawyer's Last Notebook. (Anonymous.) 1934. Crown 8vo. pp. 239. London: Martin Secker. 5s. net.

The Solicitors' Diary, Almanac and Legal Directory. 1935. Ninety-first year of Publication. Edited by R. W. D. SANDFORD, B.A., solicitor. London: Waterlow & Sons, Limited. Cloth gilt, 8s. net. Half-bound, law calf, 10s., 12s. 6d. and 15s. net.

The Law of Contracts in a Nutshell. By A. J. CONYERS, of the Inner Temple, Barrister-at-law. Second Edition. 1934. Demy 8vo. pp. xii and (with Index) 132. London: Sweet and Maxwell, Limited. 4s. net.

Diary for Lawyers for 1935. Forty-third Edition. Edited by PHILIP CLARK. London: Sweet & Maxwell, Limited. 6s. 6d. net.

The Companies' Diary and Agenda Book, 1935. Edited by HERBERT W. JORDAN, Company Registration Agent. Fifty-second year of Publication. London: Jordan & Sons, Limited. 4s. net.

Correspondence.

[*The views expressed by our correspondents are not necessarily those of* THE SOLICITORS' JOURNAL.]

Undercutting.

Sir,—The interesting paper read by Mr. Leaver at the provincial meeting of The Law Society brings to the fore again the question of undercutting.

In a disunited and throat-cutting profession unanimity on what is for the good of that profession and the public is never arrived at.

In the country, scale fees never have and never will be universally paid or expected. The same applies to a lesser degree in London. An ex-president of The Law Society once remarked to me: "I doubt if any London solicitor could honestly say he had never reduced his scale fee to a client. The scale is only rigidly enforced by those solicitors acting for lenders, etc., whose bill is paid by someone other than their client."

A solicitor was struck off recently for various offences, one of which was "Habitually charging such low fees as to bring the profession into disrepute." The principle is thereby admitted that it is wrong to undercharge; but where can the line be drawn? Are not most building society solicitors guilty?

It is not so much undercharging as undercutting which is the evil. The latter word implies an element of competition, and those who are aware of the customs in some country districts know the extent to which this is indulged in; it is a disgrace to refer to it in cold print.

The first evil to be suppressed is that of getting or filching clients by undercutting. My firm have made a practice of never agreeing to work for less than scale fees for a new client or prospective client. It does not mean that full fees are always charged; to do so would be impossible and often unfair. A man is undecided as to whether to buy an £800 house through a building society or a bank. Advertised fees in the first case for purchase and mortgage are, to quote a prospectus in front of me, £8 8s.; in the latter, £30, if the solicitor acts for the bank also. There is nothing improper if the solicitor volunteers to reduce the charges after completion to a fee which provides a fair profit, *provided no agreement is made to that effect beforehand.*

Once a client is genuinely and regularly in the office—such as a builder—then no harm results if modified fees are charged on repetition work, though even this in some cases may be open to abuse.

How can the evil be stopped?

Let The Law Society start at the outside and issue a warning notice—"That any agreement to do conveyancing work at under scale fees made between a solicitor and a person who is not already a genuine and regular client (whether that agreement is in writing or verbal) shall be deemed to be unprofessional conduct."

With this support, those members of our profession who desire to keep its status clean and to pay their clerks adequate salaries may be relied upon, if not to suppress, at any rate, to keep down an evil which does not benefit the public and which disgraces the profession.

2nd November. HAROLD BEVIR.

Costs of Administration.

Sir,—Referring to "Point in Practice" No. 3067, in your issue of last Saturday, the following work is covered by the charges for probate or letters of administration under seal, extracting and clerk's fee, namely:—

Preparing warrant for estate duty and interest.

Attendance at Inland Revenue Office, lodging warrant and affidavit for examination.

Attendance there obtaining affidavit with estate duty and interest assessed.

Attendances or correspondence obtaining remittance from client for amount of assessment.

Attendance at Inland Revenue Office, paying amount of assessment and obtaining receipt on affidavit.

Attendance at Probate Registry with receipted affidavit, oath and original will (or bond) and lodging same for grant of probate (or letters of administration), and paying court fee and obtaining receipts for documents and fees.

Attendance at Registry ascertaining whether papers in order and getting oath re-sworn, where necessary, and re-lodging same.

Attendance at sealer's seat obtaining the probate (or grant of administration).

No other charges are allowed to be made for this work. The charges depend in amount upon the value of the deceased's gross *personal* estate (see Opinion of Law Society's Council, dated 28th January, 1926), and in the smallest estate (under £100 gross personalty), total to 9s. 8d. (1s., 6s. 8d. and 2s.), plus, of course, the authorised addition of 25 per cent. for all such work.

Chancery-lane, W.C. HOWE & RAKE.
7th November.

Sir,—With reference to the reply to *Q.* No. 3067, on p. 781 of the issue of THE SOLICITORS' JOURNAL for the 3rd inst., we are sorry to observe that a full reply has not been given to the question, as upon reference to "Summerhay's and Toogood's Precedents of Bills of Costs," it would appear that the items mentioned cover attendance at Somerset House, lodging Inland Revenue affidavit, and afterwards obtaining same and paying duty, attending at the Registry, lodging papers and attending extracting letters of administration.

St. Albans. STANLEY ROBINSON & COMMIN.
5th November.

[We thank our correspondents for their helpful amplifications to our reply to *Q.* No. 3067. We hope to make up for the brevity of that reply by publishing a general article upon Probate Costs in the near future.—ED., *Sol. J.*]

Obituary.

LORD DESART.

The Earl of Desart, for many years Treasury Solicitor and Director of Public Prosecutions, died on Sunday, 4th November, at the age of eighty-six. Hamilton John Agmondesham Cuffe, the second son of the third Earl of Desart, was educated at Radley and Trinity College, Cambridge. He was called to the Bar by the Inner Temple in 1872, and was elected a Bencher in 1905. He became an Assistant Solicitor to the Treasury in 1878, and in 1894 he succeeded Sir Augustus Stephenson as Solicitor. He held that office in conjunction with that of Queen's (later King's) Proctor until his retirement in 1909. He was also Director of Public Prosecutions from 1894 until 1908, when that office was separated from the others. Upon his retirement the dignity of a baron was conferred upon him in consideration of his public services.

MR. F. G. LING.

Mr. Frederic Gaskell Ling, solicitor, senior partner in the firm of Messrs. F. G. Ling & Son, of Framlingham and Saxmundham, died on Saturday, 3rd November, in his eighty-sixth year. Mr. Ling, who was admitted a solicitor in 1873, was Clerk to the Framlingham Bench of Magistrates for more than twenty years, and was the first Clerk of the Framlingham Parish Council.

MR. W. W. MOSES.

Mr. William Watts Moses, solicitor, of Sunderland, died on Friday, 2nd November, at the age of seventy-five. Mr. Moses served his articles at Bishop Auckland, and was admitted a solicitor in 1882. He practised at Harrogate, and later moved to Sunderland, where in 1920 he became President of the Sunderland Incorporated Law Society.

MR. M. W. MORGAN.

Mr. Matthew Wayne Morgan, solicitor, head of the firm of Messrs. E. W. Miles & Co., of Cowbridge, Glamorganshire, died at his office on Monday, 29th October. Mr. Morgan, who served his articles with Messrs. J. W. Morris & Son, solicitors, of Cardiff, was admitted a solicitor in 1900, and practised at Pontypridd until the outbreak of the Great War. He took over the practice of the late Mr. E. W. Miles, of Cowbridge, about two years ago.

MR. J. WHITTLE.

Mr. John Whittle, solicitor, senior partner in the firm of Messrs. John Whittle, Robinson & Bailey, of Preston and Manchester, died at Lytham St. Annes on Friday, 2nd November, at the age of forty-three. Mr. Whittle, who was admitted a solicitor in 1912, had been a Labour member of Preston Town Council for thirteen years.

Land and Estate Topics.

By J. A. MORAN.

EVERYTHING appears to go well in the market for real estate; and that, no doubt, accounts for owners who are anxious to sell taking every advantage of the opportunity. Some of the fixtures in the near future are of the highest importance; and while the syndicates and other combinations will have much to choose from, the small investor is not going to be left out in the cold. One gets tired of proclaiming the value of the freehold ground rent as a permanent investment, and attention is called to it now merely because of the numerous auctions that have been definitely fixed. It is only when we come to agricultural land that we find examples of a lamentable fall in values. Less than sixty years ago, land in the famous Romney Marsh district of Kent sold at very high figures. The Marsh is noted for its great fertility, and many of the pastures are very rich, fattening off, without any artificial feeding, the well-known sheep whose dual qualities have secured for the breed great popularity at home and abroad. Only the other day fifty acres of this land were sold at auction for £1,380, or £28 an acre. At this figure, the acreage disposed of possesses far better prospects of capital appreciation than the indiscriminate buying of gilt-edged securities which is so much favoured by investors at the present time.

The death of Mr. John Seagram Richardson, head of the well-known firm of Debenham, Tewson and Chinnocks, means a severe loss to the profession. He had many interests centred in his ceaseless activities; and the Auctioneers' and Estate Agents' Institute as well as the London Auction Mart derived not a little of their success from the great personal interest he took in their welfare.

Mr. Harding-Thompson, the well-known town planning expert, is reported to have said that, in recent years, there had come to be a stigma attached to living on a Council estate. "People say they prefer to live in a detached villa rather than live on a well-designed housing estate, merely because the habitations are known as 'Council Houses.'" When one comes to think of it, the expert said nothing that was really new. Snobbery is always with us; and in the most marked degree has it prevailed among the poorer classes. It is to be found in the nursery as well as at the graveside.

Even the printed particulars of properties put up to public auction are not to be denied occasional flashes of humour. For instance, in a catalogue before me, we are told that the dwelling-house involved has, on the second floor, "one large bedroom . . . fitted with register grate from which is access to a large cistern and box-room, with part boarded floor." Access from the grate to a large cistern is quite in the fitness of things, as naturally one welcomes a good rub down after negotiating the black recesses of a chimney.

"The house you want" is the name which the Manchester Corporation Electricity Department has bestowed on a habitation of four rooms which is now on show. But when all things are considered there is no reason why the speculative builder should not breathe freely. Electricity for ordinary illumination purposes is all right, but when it comes to the manipulation of a multiplicity of plugs that will do anything from boiling a kettle to squeezing a lemon, the ordinary housewife would prefer to jog along in the old-fashioned way.

Following the protests made at the recent Bristol Conference of the Conservative party, property owners are to hold a meeting in the Central Hall, Westminster, this month, to discuss the whole question of payments for demolitions in slum clearance areas. It is not the fault of the property owners' organisations that there has been so much delay. The blame rests entirely on the Government, whose hesitation on a vital question of the day is losing its many supporters.

Notes of Cases.

Court of Appeal.

Rugby School Governors *v.* **Tannahill.**

Greer, Maugham and Roche, L.JJ. 24th October, 1934.

LANDLORD AND TENANT—COVENANT NOT TO USE PREMISES FOR IMMORAL PURPOSES—BREACH—NOTICE TO QUIT. NO DEMAND FOR COMPENSATION—BREACH INCAPABLE OF REMEDY—LAW OF PROPERTY ACT, 1925 (15 Geo. 5, c. 20), s. 146 (1).

Appeal from a decision of Mackinnon, J.

The lease of certain premises contained a covenant by the lessee not to allow them to be used for immoral purposes. The tenant, having been convicted of allowing them to be used for habitual prostitution, the landlords served on her a notice to quit under s. 146 (1) of the Law of Property Act, 1925. It did not require the breach of covenant to be remedied nor demand compensation in money. After her conviction, the tenant conducted the house respectably. Mackinnon, J., having held that the breach was not remedied by ceasing to commit it, held that the notice to quit was valid under the sub-section.

GREER, L.J., dismissing the appeal, said that the breach was incapable of remedy, and that *Lock* v. *Pearce* [1893] 2 Ch. 271, showed that the notice was not invalidated by the omission to require compensation.

MAUGHAM and ROCHE, L.JJ., agreed.

COUNSEL: *Fearnley-Whittingstall; H. Hallett.*

SOLICITORS: *Solomon, Standon & Barnes; Iliffe, Sweet & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Haynes *v.* **G. Harwood & Son.**

Greer, Maugham and Roche, L.JJ.
29th and 30th October, 1934.

NEGLIGENCE—ACCIDENT—RUNAWAY HORSES—STOPPED BY POLICE CONSTABLE—INJURY—CLAIM FOR DAMAGES—*Novus actus interveniens—Volenti non fit injuria*—PUBLIC DUTY—CHARACTER OF STREET.

Appeal from a decision of Finlay, J. (78 SOL. J. 384).

On the 24th August, 1932, between four and five in the afternoon, a two-horse van was left unattended for a few minutes in a street which at the time was crowded with

children and other persons; there were three schools in the neighbourhood. The horses bolted and were proceeding at a furious pace when the police-constable on duty at the police station in the street rushed out, pushed a woman to safety and stopped the horses, sustaining severe injuries in doing so. Finlay, J., held that he was entitled to recover damages.

GREER, L.J., dismissing the appeal, said that account must be taken of the nature of the street. In this case, there was negligence, a failure to use reasonable care for the safety of those lawfully using the highway. Anyone, still more a policeman, stopping a runaway horse and protecting life and property, was lawfully using the highway. Though it did not follow that it was always negligent to leave horses unattended on a highway, this was a crowded street at the time of day, as the driver must have known, and to leave horses alone even for a few minutes where mischievous children might be about, was negligent. It had been argued that there was a *novus actus interveniens*, but an intervening act was not in itself sufficient to break the chain of causation between the wrongful act and the injury (see *Engelhart* v. *Farrant & Co.* [1897] 1 Q.B. 240), if it was such as to be the probable result of the wrongful act. The doctrine of *volenti non fit injuria* did not apply, for the police constable had a moral duty to prevent injury to persons on the highway, and might readily have been expected to act as he did. (See *Brandon* v. *Osborne Garrett and Co. Ltd.* [1924] 1 K.B. 548.) *Cutler* v. *United Dairies (London) Ltd.* [1933] 2 K.B. 297, did not apply, for there the plaintiff was not rescuing anyone, but helping the defendants' servant in the defendants' work. The dictum of Scrutton, L.J., at p. 303, did not apply to a person running out to rescue someone else. It was stated too widely. Further, the doctrine of common employment did not arise.

MAUGHAM and ROCHE, L.JJ., agreed.

COUNSEL: *D. Thomas*, K.C., and *Paull*; *Hilbery*, K.C., and *Fox-Andrewes*.

SOLICITORS: *William Hurd & Son*; *Ponsford & Devenish*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Appeals from County Courts.

Stanton *v.* Laws.

Lord Hanworth, M.R., Romer, L.J., and Goddard, J.
3rd October, 1934.

LANDLORD AND TENANT—DWELLING-HOUSE AND WORKSHOP—RATEABLE VALUE—CONTROL—INCREASE OF RENT AND MORTGAGE INTEREST (RESTRICTIONS) ACT, 1920 (10 & 11 Geo. 5, c. 17), ss. 12 (2) (iii) and (6) and 13.

Appeal from Shoreditch County Court.

Since 1898, a dwelling-house and a workshop in Hackney had been let to the defendant together on a weekly tenancy, the rent in August, 1914, being 17s. 11d. a week. Subsequently it was raised to 23s. 11d. a week. On the 3rd August, 1914, the whole premises were rated at £24, but since 1925, workshop and dwelling-house had been rated separately, and on the 8th March, 1934, the county court registrar apportioned the rateable value in 1914, attributing £16 13s. 11d. to the dwelling-house and £7 6s. 1d. to the rest. On the 16th March, the landlord served notice to quit. The county court judge held that the dwelling-house was controlled by the Rent Restrictions Acts, 1920-33, but not the workshop. The landlord appealed.

Lord HANWORTH, M.R., allowing the appeal, said that the dwelling-house was never subject to the Act, because of the Increase of Rent and Mortgage (Restrictions) Act, 1920, s. 12 (2) (iii), which put outside the Act a house let together with land other than its site of which the rateable value was not less than a quarter of the rateable value of the house. It was wrong to follow *Read* v. *Goater* [1921] 1 K.B. 611, which read into that proviso s. 13 of the Act, which applied the statute to premises used for business. This being so, s. 12 (6), dealing with the continued applicability of the Act to premises to which it had once applied, could not be relied on.

ROMER, L.J., and GODDARD, J., agreed.

COUNSEL: *Heathcote-Williams*; *Rhymer*.

SOLICITORS: *Harry Chandler*; *C. V. Young & Cowper*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Withers *v.* Spicer.
Rawlence and Squarey *v.* Same.

Lord Wright, Slesser, L.J., and Talbot, J.
17th and 18th October, 1934.

TITHE RENT-CHARGE—DISTRESS—RENDERED ABORTIVE—MISTAKE AS TO VALUE OF GOODS—SECOND DISTRESS.

Appeal from Ringwood County Court.

The owner of a farm from which tithe rent-charge issued owed in October, 1931, about £30, being six months' tithe. In April, 1932, application was made to the county court for recovery out of the lands, and an officer was appointed for that purpose, who, in October, 1932, put a man in possession of three hay-ricks of the intrinsic value of about £150. Owing to the state of local feeling on the question of tithes, no auctioneers would sell them, and an order was made for sale by tender, but the highest tender received was one of £10 from the owner himself, which was accepted, though it was not enough to cover the expenses of the distress. In November, 1933, application was made for an order for a further distress, but it was held that an order having already been made there was no jurisdiction to grant it.

Lord WRIGHT, in allowing the appeal, said that *prima facie* a second distress was not allowance, but there was an exception based on *Hutchins* v. *Chambers*, 1 Burr. 579, that where the distrainor mistook the value of the thing seized he could make a second seizure. Another exception based on *Lee* v. *Cook*, 27 L.J. Ex. 337, was when the first distress was made abortive by the misconduct of the person suffering the distress. In this case the bailiff did not realise that the goods had a value of their own different from the market value owing to some extent to circumstances set in motion by the owner. The relevant question was how much the goods would fetch when sold. Where the value in the open market was determined by circumstances which could not reasonably be foreseen, a mistake came within the principle. Further, with regard to the principle in *Lee* v. *Cook*, *supra*, and *R.* v. *Judge Clements*; *ex parte Ferridge* [1932] 2 K.B. 535, threats by the owner had prevented the auction. He was also a member of an anti-tithe association. The evidence showed that his own conduct had rendered the distress abortive. A second distress could be ordered.

SLESSER, L.J., and TALBOT, J., agreed.

COUNSEL: *Sir William Jowitt*, K.C., and *Sandlands*; *A. Roskill*; *Rewcastle*.

SOLICITORS: *Withers & Co.*; *Collyer, Bristow & Co.*; *Deacon & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Wheeler *v.* Wirral Estates Ltd.

Lord Wright, Slesser, L.J., and Talbot, J.
15th and 26th October, 1934.

LANDLORD AND TENANT—HOUSE LET BY CROWN—SUBSEQUENTLY SOLD—OPERATION OF RENT ACTS—STANDARD RENT—FIRST LETTING—INCREASE OF RENT AND MORTGAGE INTEREST (RESTRICTIONS) ACT, 1920 (10 & 11 Geo. 5, c. 17), s. 12 (1) (*a*).

Appeal from the Woolwich County Court.

In 1916, the Crown built a dwelling-house at Eltham, one of several destined for munition workers. The rent of 9s. 6d. a week, including rates, was later reduced to 7s. 2d. a week. The Crown tenancies were not subject to the Rent Restrictions

Acts. In October, 1928, shortly after the reduction, the company bought the premises. The rent remained unchanged till the 1st June, 1929, when notice to quit the premises on the 10th June was served on the tenant. The notice continued: "In the alternative, take notice that we intend to increase the rent of 7s. 2d. per week to 10s. 6d. per week, being a proportion only of the full increase allowed under the Act, which is 11s. 9d. per week. . . . The increase will date from the 1st day of July, 1929." The tenant paid this rent, and also a further increase demanded in April, 1930. On an application to fix the standard rent under s. 11 of the Rent and Mortgage Interest (Restrictions) Act, 1923, Judge Moore held that the rent at which the house "was first let" after the 3rd August, 1914, within s. 12 (1) (*a*) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, was 10s. 6d.

Lord WRIGHT, in giving judgment, said that the effect of the notice was to create a new tenancy at 7s. 2d. a week from the 10th June to the 1st July, 1929, followed by a further new tenancy when the tenant stayed on, these tenancies being subject to the Acts. Till then, the tenant had stayed on as a common law tenant, on the same footing under the company as under the Crown: *Wirral Estates Ltd.* v. *Shaw* [1932] 2 K.B. 247; *Clark* v. *Downes*, 145 L.T. 20. The notice was clear; it ended the common law tenancy and contained an offer to stay on at 7s. 2d. a week for three weeks, which the tenant accepted by staying on. Afterwards, a new weekly tenancy was created as from the 1st July. The rent of 10s. 6d. was not a "progressive rent" within s. 12 (*a*) of the Act of 1920, such a rent being one which rose automatically during the continuance of a single tenancy. It had been argued that in ascertaining the standard rent, the letting by the Crown could not be regarded as the first letting. This contention failed; s. 12 (1) (*a*) was dealing with the specific fact of a dwelling-house let for the first time, even though at that date it was not within the Acts. Every house had a standard rent, whether it fell within the Acts or not: see *Sinclair* v. *Powell* [1922] 1 K.B. 393, at p. 405. This house was first let in 1916 at 9s. 6d. a week, and this was the standard rent, it being immaterial that this first letting was by the Crown, which was not bound by the Acts. This decision involved overruling *Clark* v. *Mead*, 149 L.T. 308. In that case, the court had relied on an observation of Romer, L.J., in *Clark* v. *Downes*, 145 L.T. 20, at p. 22, that one must read s. 12 (2) of the Act of 1920 "as though in express terms it said: 'This Act shall apply to a house other than a house belonging to the Crown.'" This statement was incontrovertible, but it did not affect the determination of the standard rent.

SLESSER, L.J., and TALBOT, J., agreed.

[Costs were awarded to the respondent company, the appellant having failed in his contention that the standard rent was 7s. 2d., while the respondents had always maintained 9s. 6d. to be correct, putting forward 10s. 6d. as an alternative.]

COUNSEL: *Sir Stafford Cripps*, K.C., *C. Salmon* and *Swanwick*; *Vick* and *Lyell*.

SOLICITORS: *Schultess-Young & Dupont*; *Woodroffes*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re Midland (Amalgamated) District (Coal Mines) Scheme, 1930.
Robert Holliday & Sons Ltd. *v.* Executive Board.

Crossman, J. 10th, 11th and 31st October, 1934.

MINES—"OUTPUT"—DEFINITION—CLEANED AND UNCLEANED COAL—COAL MINES ACT, 1930 (20 & 21 Geo. 5, c. 34), s. 18 (1).

At a colliery belonging to the company, the material was brought to the surface and weighed in tubs at the pit-head. Subsequently, the processes of screening, picking and washing removed dirt which amounted to 7 per cent. of the whole. The Coal Mines Act, 1930, s. 18 (1), defined output as "the tonnage in coal raised and weighed at the pit-head," and the company claimed that in calculating its monthly permitted output under the Midland (Amalgamated) District (Coal Mines) Scheme, 1930, the dirt should be excluded.

CROSSMAN, J., in giving judgment, said that it had been argued that "coal" in the definition meant, *prima facie*, coal and not coal admixed with dirt, and that there were no other words to affect this meaning. This had been supported by reference to *Attorney-General of Ontario* v. *Mercer*, 8 App. Cas. 767. However, on the true construction of the whole sentence, "tonnage in coal" meant tonnage in uncleaned coal as it came out of the pit in the tubs.

COUNSEL: *Houldsworth*; *C. Radcliffe*.

SOLICITORS: *F. W. Bell*, of Leeds; *Vincent & Vincent*, agents for *Owen V. Smithson*, of Leeds.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

In re Ashton: Sier *v.* Ashton.

Clauson, J. 1st November, 1934.

INTESTACY—ADMINISTRATION—ACCOUNT — SATISFACTION — ESTATE DUTY—ADMINISTRATION OF ESTATES ACT, 1925 (15 Geo. 5, c. 23), s. 47 (1) (iii).

This was a summons taken out by the administrators of the estate of Lord Ashton, who died intestate in 1930, for the determination of certain questions relating to a sum of £800,000 which Lord Ashton covenanted to pay to the trustees of the marriage settlement of his daughter Countess Peel. The sum which was to be paid in his lifetime or within two years after his death had, in fact, been paid to the trustees. Lord Ashton left estate valued at about £10,000,000, and under the intestacy Lady Peel as his only child was entitled to a sum exceeding £800,000. The questions for determination were:—(1) Whether the covenant on the part of Lord Ashton contained in the marriage settlement to pay the £800,000 was, by reason of Lady Peel's having become entitled to a share of the estate of Lord Ashton under his intestacy exceeding the £800,000, satisfied or performed to the extent of the interest to which Lady Peel was entitled under the settlement; (2) whether, under and by virtue of the provisions of s. 47 of the Administration of Estates Act, 1925, the £800,000 should be brought into account by Lady Peel in favour of Lady Ashton, the widow of Lord Ashton; (3) whether the estate duty paid by the plaintiffs in respect of the £800,000 should be charged in account against the general estate of Lord Ashton or debited from the £800,000 or charged against the estate, and the £800,000 rateably according to their respective values.

CLAUSON, J., in giving judgment, after referring to the cases of *In re Blundell* [1906] 2 Ch. 222, and *Salisbury* v. *Salisbury*, 6 Hare 526, said that he was bound by the latter decision, and held that in the present case the covenant to pay the £800,000 was not to any extent satisfied or performed by reason of Lady Peel having become entitled to a share of the estate of Lord Ashton under his intestacy exceeding the £800,000. In answer to the second question as to bringing the legacy into account, his lordship held that the sum should not be brought into account. Dealing with the third question relating to duty, his lordship held that the present case was covered by the decision in *In re Gray*, 11 Ch. D. 142, and that the estate duty must come out of the general estate.

COUNSEL: *Raymond Jennings*; *Wilfrid Hunt*; *Gavin Simonds*, K.C. and *G. P. Slade*; *R. F. Roxburgh*, K.C., and *H. F. F. Greenland*.

SOLICITORS: *Lewis & Lewis*; *Gregory, Rowcliffe & Co.*; *Trower, Still & Keeling*; *Freshfields, Leese & Munns*.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

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Incitement to Disaffection Bill.
Read Third Time. [2nd November.
Poor Law Bill.
Read Second Time. [5th November.

Questions to Ministers.

HIS MAJESTY'S JUDGES.

Sir N. GRATTAN-DOYLE asked the Attorney-General whether he is aware that the attenuated number of His Majesty's judges, apart from the King's Bench, is causing delay and confusion in the transaction of legal business in the courts; and whether steps will be taken for a sufficient number of extra judges to be appointed to obviate such inconvenience to the bench, the bar, and the public?

The ATTORNEY-GENERAL: I am unable to follow the suggestion made by my hon. Friend that the number of judges, apart from the King's Bench Division, is attenuated. I shall make a statement upon the steps which His Majesty's Government propose to take with respect to the general situation when moving the Motion which stands in my name for to-day. [1st November.

LEGAL OFFENCES (STANDARD FINES).

Mr. HANNON asked the Home Secretary whether he has considered the report of the law and parliamentary committee of the Birmingham Chamber of Commerce, which was adopted by the council of that body on Monday, 30th July, 1934, and which embodied proposals for the payment of standard fines for specified offences without the necessity of the offender attending court; if the suggestions submitted have received the consideration of his Department; and if any action is contemplated?

Sir J. GILMOUR: I have carefully considered the report but am unable to support the proposals. [1st November.

TRUSTEE SECURITIES.

Mr. WHITE asked the Chancellor of the Exchequer whether, in view of the changed conditions of the last two years, he will consider the advisability of appointing a committee to consider *de novo* in what securities trustees should be authorised to invest and what procedure should be adopted for making additions to or deletions from the list of such securities?

Mr. TOUCHE asked the Chancellor of the Exchequer whether, in view of the change in investment conditions which has taken place since the report of the Cave Trustees Securities Committee, he will reconsider the advisability of introducing legislation to amend the rules governing the status of trustee securities?

Mr. COOPER: A review of the list of trustee securities does not suggest that there has been any substantial change within the last 10 years in the aggregate volume of nominal capital available for holding by trustees. In all the circumstances, my right hon. Friend does not propose at the present time to adopt either of the suggestions made to him. [6th November.

IMPRISONMENT FOR DEBT.

Sir J. WITHERS asked the Home Secretary whether he proposes to introduce a Bill to amend the law relating to imprisonment for debt on the lines recommended by the Departmental Committee of the enforcement of fines and other sums ordered by courts of summary jurisdiction?

Sir J. GILMOUR: The committee's report is receiving my careful attention, but I am not at present in a position to make any statement about legislation. [6th November.

MONEY-LENDING TRANSACTIONS.

Mr. RHYS DAVIES asked the Home Secretary whether he has considered the disabilities under which borrowers are labouring in taking legal action against unconscionable transactions of money-lenders, inasmuch as the borrower is financially embarrassed and cannot find the money to take legal action, and that in any case he dislikes the publicity that would come of taking such legal action; and what steps he proposes to take in the matter?

Sir J. GILMOUR: I am aware of the difficulties which may hamper borrowers in having recourse to their legal remedies for the re-opening of a moneylending transaction, but I am not aware of any practicable steps which could be taken to meet these difficulties. [7th November.

Centenary Celebration at the Old Bailey.

THERE has been a criminal court in the Old Bailey for centuries, but in 1834 the Act was passed which created the Central Criminal Court and defined its constitution and jurisdiction. This Act came into operation on 31st July, 1834, and the first court sat on 1st November. The Corporation of the City of London celebrated the centenary of the court on 1st November of this year, when the Lord Chancellor unveiled a bronze memorial tablet in the Upper Hall. Before the ceremony the Aldermen, Mr. Recorder, the Common Sergeant, the Judge of the Mayor's and City of London Court, and the Officers of the Court, received the Acting Lord Mayor, Sir Charles Batho, the Sheriffs and the Lord Chancellor, accompanied by His Majesty's Judges and the Law Officers of the Crown. They then formed a procession and proceeded to the Upper Hall, where a large number of members of the Bar were already awaiting them. The Acting Lord Mayor, in his address of welcome, recalled the long history of the court and mentioned the Charter of Edward III, dated the 6th March, 1327, appointing the Lord Mayor one of the justices of gaol delivery for Newgate Prison. The court, he said, had commanded for generations the admiration of lawyers from all parts of the civilised world. It had been presided over by some of the greatest judges on the English Bench. One of its chief characteristics was its frequent sessions, which were held no less than twelve times in the year, thereby ensuring that no accused person need remain untried for a period of more than a few weeks. The court had jurisdiction over the City of London, the whole of London and Middlesex, and a considerable part of Essex, Kent and Surrey. The Criminal Justice Act, 1925, had in practice extended its jurisdiction to the whole of England, because from time to time cases were sent for trial to the Central Criminal Court from quite distant cities and towns. Notwithstanding the extension of the powers of courts of summary jurisdiction, the work of the court had greatly increased during the past century. Whereas in 1834 it had exercised jurisdiction over a population of only 1,800,000, to-day that number had risen to over 8,000,000. The Act which had brought the court into existence over one hundred years ago was still of full force and effect. In the City only material things broke up and decayed; its institutions, including the Central Criminal Court, were maintained and continued to increase in value and importance.

The LORD CHANCELLOR said that the Central Criminal Court, the original court of the City of London, was no ordinary court. Possessing a constitution peculiarly its own, it exercised criminal jurisdiction far beyond the limits of the City and Greater London: it embraced within its authority offences committed upon the high seas and by persons subject to naval and military law. The respect and admiration which it so worthily enjoyed were, however, derived not from its wide jurisdiction but rather from the manner in which it had administered justice to all throughout the century. Looking back and contrasting the court of to-day with what it had been one hundred years ago, a great and remarkable change could be observed. There had been an almost revolutionary change in the attitude of the public mind towards the punishment of offenders. At the end of the eighteenth century no less than 200 crimes had been punishable by death, and—what to-day seemed so extraordinary—little children had been treated without any distinction from hardened criminals. A boy nine years old had been solemnly sentenced at the Old Bailey to be hanged by the neck until he was dead for stealing goods worth twopence from a shop window. Within three years of the foundation of the court a more humane attitude had begun to show itself, and capital punishment for forgery, for burglary not accompanied by wounding, and for certain other offences had been abolished. Meanwhile, however, executions had been carried out in public, before the eyes of hundreds of abandoned men and women, to whom they had afforded a salacious entertainment. The lot of those who escaped death had not been much better, for they had been transported or sent to penal servitude—under a system which had given rise to appalling cruelty and oppression. Public opinion, which here as so often elsewhere was in advance of legislative action, had expressed itself in the refusal of juries to convict, and in the advantage which had been taken of the slightest defect in an indictment. For instance, a prisoner had been sentenced to death for stealing a ewe, but since the indictment had charged him with stealing a sheep the conviction had been quashed. Nowadays, while offenders were treated in a more humane manner, the guilty could not escape through a technical flaw in procedure.

The present object of punishment was the reclamation of the offender, to make him a decent, self-respecting member of the State. Success had been achieved by the probationary system and the Poor Persons Defence Act, which ensured that lack of money should not involve lack of adequate legal assistance. A far-reaching change had been the appearance in the witness-box of a prisoner as a witness on his own behalf, and another had been the establishment of the Court of Criminal Appeal.

Within a year of the establishment of the Central Criminal Court a number of barristers had begun to attend it regularly. The Law List of 1835 contained the names of forty-four Counsel attending the Central Criminal Court. The current Law List gave the names of 275 members of the Central Criminal Court Bar Mess. This great increase in the numbers of the Bar attending the court was an indication of the great increase in its business. The conduct of cases by the Bar was worthy of the highest traditions of the profession.

The judges who had presided, the advocates who had pleaded and the officials of the court had given to it a world-wide reputation as a model criminal court. Throughout the terrible years of the Great War and the difficult years that had followed, the court had never wavered in its duty but had continued to administer justice with calmness, dignity and impartiality. What changes the future might produce no man could say, but all might confidently anticipate that the high moral purpose, the integrity, the prestige, and the great tradition of the court would be worthily maintained.

The Lord Chancellor then unveiled the bronze memorial tablet, which faces and harmonises with the court's war memorial.

Lord HEWART, Chief Justice, remarked that congratulation seemed incongruous in connection with a criminal court, unless it were on some occasion when an innocent defendant had been triumphantly acquitted. Nor was there much merit in the mere fact that since the passing of the Act of 1834 100 years had somehow gone by. There was, however, solid ground for satisfaction in the real improvement which, during the past hundred years, had been made in the administration of the criminal law. The term "Old Bailey methods" only existed now as a reminder of the unpleasant conditions of the past. The Central Criminal Court, together with an increasing extension of its jurisdiction, exhibited an increasing degree of fairness, patience and humanity throughout the whole field of criminal law and practice. It would be hard to imagine a more vivid contrast than that afforded between the methods and temper of to-day and the harshness, hastiness and brutality of the early part of the last century. Nevertheless, it would be a mistake to attribute the great change which had come about to mere tendencies, or the spirit of the age. It had in effect largely been due to the vigilance and unceasing efforts of individual lawyers. Over forty years ago the Bar Mess of the court had been founded as a result of the public-spirited efforts of men whose names would never be forgotten. Among those names none stood higher than that of Mr. Justice Avory. It was a great privilege to see him present that morning, full of years and honours, a great master of the criminal law and a pattern and an inspiration to all its practitioners.

The ATTORNEY-GENERAL, while acknowledging that the part played by His Majesty's Judges in the administration of the law had been the greatest factor in forming its tradition of justice mixed with mercy, claimed that the Bar of England had made a notable contribution to that tradition. Great advocates had exhibited those qualities of boldness and independence which were as necessary to the proper administration of justice as the impartiality of the judge. The scenes in court once so popular with the evening press now seldom occurred. This happy result was due not only to the good sense of both Bench and Bar, but to the due recognition by the Bench that an advocate had a duty which required freedom of speech for its performance. The fact that that freedom was so rarely abused was one of the happiest features of the English system of criminal jurisprudence. The last hundred years had seen the establishment of the rule, now almost axiomatic, that an advocate should not express any personal opinions on the guilt or innocence of his client. At the trial of Palmer in 1856 Lord Campbell had remarked that an advocate should press on the jury his arguments and not his personal opinion on the innocence of his client, and this saying had now become a commonplace. The Central Criminal Court Bar, headed by many famous men, had built up a tradition of respect for the court, loyalty to the client, and an unswerving rectitude. Those who had the privilege of attending the celebration might well be proud of the progress which had been made in the last century.

ALLIANCE ASSURANCE COMPANY, LIMITED.

The directors of the Alliance Assurance Company, Limited, at their meeting declared an interim dividend, payable on the 5th January, 1935, of 8s. per share, less income tax.

Societies.

The Law Society.

PRELIMINARY EXAMINATION.

The following candidates (whose names are in alphabetical order) were successful at the Preliminary Examination held on the 17th and 18th October, 1934: John George Bewley, Thomas Benson Bland, Ronald Edward Brooke, Christopher John Carey, Norman William Darby, William Arnold Darbyshire, Charles Thomas William Dawkins, James Hogg Edmondson, Frank Stansfield Ellis, Thomas Idwal Evans, Roy Thomas Fells, Francis Henry Gaskell, John Ernest Lloyd Gover, Edward Nathaniel Grace, William Lewtas Wing Hall, William George Hawkins, Malcolm George Haymes, Percy John Henshaw, Robert Gerald Hopwood, Francis Home Howard, James Alan Howard, Alexander Elder Husband, Morgan Charles Kenshole, Cecil Arthur Lloyd, Cyril Joseph McCalvey, Patrick Cæsar de Mérindol Malan, John Marriott, Arthur Basil Martin, Ashurst Everad Stuart Menzies, William Williamson Morgan, Arthur Leonard Mulcare, Robert Vincent Paul Ollard, Trevor Stanley George Passmore, John Pennington, Robert Cornwallis Gerald St. Leger Ricketts, Geoffrey Ashton Roberts, Sydney Gilbert Robinson, John Spray Rogers, Carlo William Couzens Smith, Charles Neville Smith, Frank James Ash Smith, John Norman Sutton, Hugh Charles Walker, James Philip Walker, John Hustler Walker, Maurice Owen Wellbelove, George Leslie Ruston Wilkinson. Number of candidates, 105; passed 47.

United Law Society.

A meeting of the United Law Society was held on the 5th November in the Middle Temple Common Room. Mr. J. H. Vine Hall proposed "That the failure of the Gunpowder Plot was a misfortune from which England and the world still suffer." Mr. H. H. West opposed, Messrs. J. H. Menzies, O. T. Hill, H. S. Wood Smith, H. Everett, R. E. Ball, T. A. Holford, A. Blundell and G. B. Burke spoke, and Mr. Vine Hall replied. The motion was lost by five votes.

University of London Law Society.

An innovation, which proved a great success, was tried at the weekly meeting of the University of London Law Society last Tuesday, when several members read papers on legal subjects. Mr. A. Goodman, LL.B., the President, was in the chair, and gave a good lead by reading a paper incorporating a report of the most comic trial in recent years in America, "The monkey trial," where a fundamentalist was indicted for preaching the doctrine of evolution.

Mr. W. Kraft followed with an instructive paper on "Criminal intention in German and English law," and said that German law had the imprint of professorship in contrast to English judge-made case law. In Germany a jury sat on the bench with the judge, and discussed with him questions of law and fact, with the result that the two questions became somewhat mixed. Nor were there in Germany any strict rules of evidence as we knew them in our courts.

Mr. Stranders gave a very helpful talk on "Medical Jurisprudence."

The Auctioneers' and Estate Agents' Institute.

COMING CHANGES IN THE LAW OF ARBITRATION.

At a meeting of the Auctioneers' and Estate Agents' Institute held on the 1st November, Mr. David M. Lawrance read a paper on "Coming Changes in the Law of Arbitrations." He explained that the Arbitration Act, 1934, while it merely amended the Act of 1889 and was not a principal measure, nevertheless introduced several important changes. It had been passed with hardly any opposition, and gave effect to a number of recommendations made in 1927 by Mr. Justice Mackinnon's Committee on the Law of Arbitration. It was to come into operation on the 1st January, 1935, and would affect all arbitrations commenced after that date even though the agreement might have been made before it. The term "arbitration agreement," he said, was suggested for "submission," with the meaning of a written agreement to submit present or future difficulties to arbitration. The new expression was less ambiguous, for in certain parts of the principal Act "submission" was used to indicate the arbitrator's authority rather than the actual agreement to refer. He pointed out that the death of one of the parties will not now, as hitherto, discharge the arbitration agreement, which will be enforceable against or by the personal representative. An arbitrator is to be removable if he misconducts the proceedings, not merely if he "misconducts himself," and the court may, on the application of any party, remove an arbitrator who fails to do his work with all reasonable dispatch. The court may also appoint new arbitrators or umpires, subject to certain conditions. The Mackinnon Committee, said Mr. Lawrance, severely criticised the practice of three persons sitting to hear an arbitration, chiefly on the grounds that two of them were likely to act as advocates. By the new Act an agreement for reference to three arbitrators will have effect as if it provided for the appointment of two arbitrators and an umpire, the last-named acting only if the two arbitrators have failed to agree. When three arbitrators are appointed in another way than one by each party and the third by the other two, the decision of any two will be binding upon the parties. Under the new Act, when two arbitrators are appointed an umpire must be appointed immediately, and either party may on seven days' notice apply to the court to make the appointment. The court may now order the umpire to enter on the reference in place of the arbitrators, as though he had been appointed sole arbitrator. From the Report of the Committee it would appear that the new provision was principally directed to those cases where the agreement expressly provided that the umpire should sit with the two arbitrators from the beginning. These arrangements, said Mr. Lawrance, were subjected to very unfavourable comment. In future, where disputes are referred to an arbitrator named or designated in the agreement, the application for leave to revoke the submission, or for an injunction to restrain arbitration proceedings, is not to be refused on the ground that the applicant, when he made the agreement, knew or ought to have known that the arbitrator might not be capable of impartiality. This provision, Mr. Lawrance suggested, will apply particularly to building and engineering contracts, which commonly provide for all disputes to be referred to the sole arbitration of the architect or engineer in charge of the works, whom both parties know can scarcely be regarded as impartial in the strict sense of the word. If a dispute arises involving a question of fraud, the court may now order that the agreement shall cease to have effect and give leave to revoke any submission under it so far as is necessary to enable the question to be settled by the court. This amplifies the principle now in force that a party charged with fraud is entitled to have the matter investigated in open court.

Mr. Lawrance also dealt with the additional powers given to the arbitrator and the court, and the new provisions governing the award, the costs and the arbitrator's fees.

The Hardwicke Society.

A meeting of the Society was held on Friday, 2nd November, at 8 p.m., in the Middle Temple Common Room, the President (Mr. A. Newman Hall) in the chair. Mr. L. A. Abraham, ex-President, moved: "That as a result of the Bristol Conference the Conservative Party stands discredited in the eyes of this House." Mr. J. A. Petrie opposed. There also spoke Mr. Granville Sharp (ex-President), Mr. Menzies, Mr. Llewellyn Thomas, Mr. Ungoed Thomas (ex-President), Mr. T. H. Mayers (Hon. Treasurer), Mr. Penson, Mr. Ifor Lloyd (ex-President), Mr. Reginald Jones and Mr. A. Newman Hall. The hon. mover having replied, the house divided, and the motion was lost by three votes.

Law Students' Debating Society.

At a meeting of the society held at The Law Society's Court Room, on Tuesday, 30th October (chairman: Miss H. M. Cross), the subject for debate was: "That marriage is a lottery and therefore contrary to public policy." Mr. R. J. A. Temple opened in the affirmative, Mr. P. W. Iliff opened in the negative. The following also spoke: Miss U. A. Hastie, Messrs. D. H. McMullen, H. B. Sacks, J. E. Terry, J. H. Buller, L. J. Frost, B. T. Collings, W. M. Pleadwell, R. Morgan, R. Langley Mitchell, P. H. North Lewis and R. W. Jackling. The opener having replied, the motion was lost by seven votes. There were twenty-two members and six visitors present.

At a meeting of the Society held at The Law Society's Court Room, on Tuesday, 6th November (chairman, Mr. L. J. Frost), the subject for debate was "That the case of *Liddle* v. *Yorkshire* (*North Riding*) *County Council* [1934] 2 K.B. 101, was wrongly decided." Mr. G. N. Parbury opened in the affirmative. Mr. J. R. Brightman opened in the negative. Mr. J. E. Terry seconded in the affirmative. Mr. M. Foulis seconded in the negative. The following members also spoke: Messrs. G. A. Russo, R. Morgan, W. M. Pleadwell, E. V. E. White, P. Dean, Miss V. A. Hastie,

Messrs. E. C. Durham and C. J. de S. Root. The opener having replied, and the Chairman having summed up, the motion was lost by one vote. There were seventeen members present.

London University Law Society.

A successful joint debate was held at University College, Gower-street, on Tuesday, 30th October. "That uni-lateral disarmament was the only road to peace," was moved by Mr. Stranders and supported by Mr. Rogers for the London University Law Society, and the negative was taken by Mr. Redgrove, supported by Miss Perry on behalf of the Bank of England Debating Society. Mr. A. Goodman, LL.B., the President of the University of London Law Society presided. Mr. Hillbrook, the President of the Bank of England Debating Society, was also present. An animated discussion followed the speeches, and the chief speakers and among those who voiced their opinions were: Messrs. Downing (hon. secretary of the Bank of England Debating Society), F. E. C. Wood, Garnet, Silver, R. T. J. Waters and Jacobs (hon. treasurer, University of London Law Society). The motion was lost by twenty-six votes to fourteen.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to approve the following appointments: Mr. JOHN EDWARD SINGLETON, K.C., and Mr. SAMUEL LOWRY PORTER, K.C., to be Justices of the High Court of Justice, King's Bench Division, pursuant to an Address from both Houses of Parliament.

The King has been pleased to approve the appointment of Mr. CHARLES MURRAY MURRAY-AYNSLEY, Chief Justice, Tonga, to be Chief Justice of Grenada, in succession to Mr. R. S. de Vere, who will retire from the Colonial Service in January next.

The Lord Chancellor has appointed Mr. CYRIL YOUNG to be the Registrar of Wolverhampton County Court and District Registrar in the District Registry of the High Court of Justice in Wolverhampton as from the 19th October, 1934.

Sir GEORGE CLAUS RANKIN, Chief Justice of Calcutta, has been elected a Bencher of the Honourable Society of Lincoln's Inn in the place of the late Sir William James Greig, K.C.

Mr. CLIFFORD HEYWORTH, Deputy Town Clerk of Bromley, has been appointed Clerk and Solicitor to the Urban District Council of Chingford. Mr. Heyworth was admitted a solicitor in 1929.

Mr. T. D. HOCKINGS, Assistant Town Clerk of Stockport, has been appointed Town Clerk of Redcar. Mr. Hockings, who was admitted a solicitor in 1926, will take up his new duties on 1st January next.

Mr. SYDNEY J. THORNE, Assistant Solicitor to the County Borough of Middlesbrough, has been appointed Deputy Town Clerk of the County Borough of Bury. Mr. Thorne was admitted a solicitor in 1930.

Mr. W. C. ANDERSON, assistant solicitor to the Bootle Corporation, has been recommended for the position of Deputy Town Clerk of Heywood. Mr. Anderson was admitted a solicitor in 1933.

The Right Hon. EDWARD SHORTT, K.C., has accepted the chairmanship of the British Committee of Mexican Bondholders.

UNEMPLOYMENT ASSISTANCE: ORGANISATION PLANS.

The Unemployment Assistance Board, which on 7th January next will take over the functions of providing for the maintenance and welfare of the able-bodied unemployed, gives in a recent circular letter to local authorities some information concerning the proposed organisation of its work. The country has been divided up into 238 areas, with forty-four out-stations attached to certain of them. The area offices are grouped under twenty-eight district offices, which will communicate direct with headquarters. In addition to the district officers, whose duties will be in the main supervisory, there will be regional officers, with general inspectorial and advisory functions, in groups of districts. The main work of the Board will be dealt with by the staff attached to the area offices, who will be in close touch with the employment exchanges.

IMPORTANT NOTICE TO SOLICITORS.

ANNUAL PRACTISING CERTIFICATES.

Practising certificates for the year 1933-34 will expire on the 15th November, and should be renewed before the 15th December.

All certificates on which the duty is paid after the 1st January next must be left with The Law Society for entry, and the names of solicitors taking out their certificates after that date cannot be included in the Law List for 1935.

COUNTY COURTS OFFICES.

The Offices of the County Courts shall be closed on Tuesday, the 1st day of January, 1935, unless in any particular case the Lord Chancellor otherwise directs.

Nothing in this Order shall apply to the District Registries of Liverpool and Manchester.

By Order of the Lord Chancellor.

Dated the 1st day of November, 1934.

A. E. A. NAPIER,
Assistant Secretary.

BRITISH RECORDS ASSOCIATION.

The second annual meeting and conference of the British Records Association will be held at Burlington House on Monday, 12th November. The proceedings will commence with the general meeting of the Records Preservation Section at 11 a.m. A reception will be held in the evening at Grocers' Hall, Princes-street, E.C., by kind invitation of the Worshipful Company of Grocers. The Master of the Rolls and Lady Hanworth will receive the guests from 9 o'clock to 9.45 p.m.

UNCONSIDERED TRIFLES.

In an affidavit read to Mr. Justice Clauson recently, on the hearing of a motion, the deponent's name was, of course, given, but there followed no description of who he was. "I am always having to ask who the deponents are," protested his lordship, "because they are not properly described in the affidavits." The very next affidavit to be read suffered from the same defect. The point, we appreciate, is a very minor one and hardly worth commenting upon, but when these slight defects repeatedly appear it is well that attention should be drawn to them so that the irritation they cause may be avoided in future. Unnumbered correspondence, or where the judge's copy is differently numbered from that of counsel, are among other small matters which have frequently been the subject of adverse judicial criticism, and still the trouble persists! The accumulated effect of these trifling matters must mean the waste of hours in the course of a year, and in any case it should be remembered that "trifles make perfection, and perfection is no trifle." Why irritate the judge, waste even a fraction of the court's time, and cause slight confusion when but a moment's care would put matters right? Finally, it may not be inapt to call attention to the observations of Mr. Justice Luxmoore recently when a number of applications were made to him for the postponement of cases in the warned list. "Every time a new lot of cases appears in the warned list," said his lordship, "the court is packed with people who want to apply for them to be postponed. If solicitors are not ready, I wish there were some means of making them pay the costs personally. The only thing to do in the future, I think, is to stick closely to the lists as published, and if solicitors are not ready it may be that the clients will have some cause of action against them for negligence."

LAW REVISION COMMITTEE.

The Lord Chancellor has referred the following additional subjects to the Law Revision Committee established on the 10th January, 1934, under the chairmanship of Lord Hanworth, Master of the Rolls.

A. To consider and report whether all or any of the following enactments should be amended or repealed:—

Statute of Frauds, 1677, s. 4.
Statute of Frauds Amendment Act, 1828.
Mercantile Law Amendment Act, 1856.
Sale of Goods Act, 1893, s. 4.

B. To consider and report whether and, if so, in what respects the doctrine of consideration requires modification, and, in particular, to consider the following aspects of and observations upon that doctrine:—

(A) The rule in *Pinnel's Case* (1602), 5 Rep. 117. See Notes to *Cumber and Wane* (1719), 1 Smith's Leading Cases (13th ed.), p. 373, and especially the observations at p. 385. See also the remarks of Jessel, M.R., in *Couldery* v. *Bartrum* (1881), 19 Ch. D. 399.

(B) The rule that a promise to perform an existing duty is no consideration. See "Leake on Contracts" (1st ed.) p. 321; "Pollock on Contract" (9th ed.), pp. 198 *et seq.*

(C) The rule that consideration must move from the promisee, including the attitude of the common law towards the *jus quæsitum tertii*. See *Dunlop Tyre Co.* v. *Selfridge* [1915] A.C. 847, and especially the observations of Lords Haldane and Dunedin, at pp. 853 and 855.

(D) The need for consideration to make simple contracts enforceable. *Pillans* v. *Van Mierop* (1765), 3 Burr. 1665, and of *Rann* v. *Hughes* (1773), 7 T.R. 350.

C. To consider and report whether the Statutes and Rules of Law relating to the limitation of actions require amendment or unification, and in particular to consider the rules relating to acknowledgments, to part payments, the disabilities of plaintiffs, the circumstances affecting defendants which prevent the periods of limitation from beginning to run, and the scope of the rules as to concealed fraud.

The Lord Chancellor, when setting up the Committee, referred to them the four following subjects:—

(1) The doctrine of no contribution between tortfeasors (*Merryweather* v. *Nixan*, with special reference to the remarks of Herschell, L.C., in *Palmer* v. *Wick and Pulteneytown Steam Shipping Company Limited* [1894] A.C. 318).

(2) The legal maxim *actio personalis moritur cum persona*, and the rule that "in a civil court the death of a human being could not be complained of as an injury" (*Baker* v. *Bolton* (1808), 1 Campbell 493, and *The Amerika* [1914] P. 167; [1917] A.C. 1).

(3) The liability of the husband for the torts of the wife (*Edwards* v. *Porter* [1925] A.C. 1), and the liability of a married woman in tort and contract, including the form of judgment in *Scott* v. *Morley*, 20 Q.B.D. 120.

(4) The state of the law relating to the right to recover interest in civil proceedings. (See in particular "Roscoe's Nisi Prius," 19th ed., Vol. I, pp. 508–512).

The Committee have reported on the first, second and fourth of these matters, and effect has been given to their recommendations with regard to Nos. 2 and 4 by the Law Reform (Miscellaneous Provisions) Act, 1934.

A report on subject No. 1 has been received, but there has not been sufficient time to introduce legislation to carry out the recommendations of the Committee.

A report on subject No. 3 has not yet been received, but the Committee have made very substantial progress in its consideration.

The subjects now remitted to the Committee will require them to deal with—

(1) The Statute of Frauds, which by s. 4 requires writing to make certain contracts enforceable.

(2) The doctrine of consideration in contracts.

(3) The various scattered Statutes of Limitations which have imposed time limits on the right to bring actions. To these limits certain exceptions have been attached which are not easy to co-ordinate or reconcile and which need reconsideration.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

Date.	Emergency Rota.	Appeal Court No. 1.	Group I. Mr. Justice Eve. Witness. Part I.	Mr. Justice Bennett. Witness. Part II.
	Group I.		Group II.	
	Mr.	Mr.	Mr.	Mr.
Nov. 12	Andrews	Blaker	*Jones	Blaker
,, 13	Jones	More	*Hicks Beach	*Jones
,, 14	Ritchie	Hicks Beach	*Blaker	Hicks Beach
,, 15	Blaker	Andrews	Jones	*Blaker
,, 16	More	Jones	*Hicks Beach	Jones
,, 17	Hicks Beach	Ritchie	Blaker	Hicks Beach
	Mr. Justice Crossman. Non-Witness.	Mr. Justice Clauson. Non-Witness.	Mr. Justice Luxmoore. Witness. Part II.	Mr. Justice Farwell. Witness. Part I.
	Mr.	Mr.	Mr.	Mr.
Nov. 12	Hicks Beach	Ritchie	*Andrews	*More
,, 13	Blaker	Andrews	More	*Ritchie
,, 14	Jones	More	*Ritchie	*Andrews
,, 15	Hicks Beach	Ritchie	Andrews	*More
,, 16	Blaker	Andrews	*More	Ritchie
,, 17	Jones	More	Ritchie	Andrews

*The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 22nd November, 1934.

	Div. Months.	Middle Price 7 Nov. 1934.	Flat Interest Yield. £ s. d.	†Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	115¾	3 9 1	3 0 2
Consols 2½%	JAJO	84¾	2 19 0	—
War Loan 3½% 1952 or after	JD	105¼	3 6 2	3 1 7
Funding 4% Loan 1960-90	MN	117¾	3 7 11	2 19 8
Funding 3% Loan 1959-69	AO	100⅝	2 19 8	2 19 5
Victory 4% Loan Av. life 29 years	MS	115¼	3 9 5	3 3 9
Conversion 5% Loan 1944-64	MN	120¾	4 2 10	2 8 1
Conversion 4½% Loan 1940-44	JJ	114½	3 18 7	1 17 7
Conversion 3½% Loan 1961 or after	AO	107½	3 5 3	3 1 10
Conversion 3% Loan 1948-53	MS	103¾	2 17 10	2 13 4
Conversion 2½% Loan 1944-49	AO	99¾	2 10 1	2 10 5
Local Loans 3% Stock 1912 or after	JAJO	96½	3 2 2	—
Bank Stock	AO	375½	3 3 11	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	88	3 2 6	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	95½	3 2 10	—
India 4½% 1950-55	MN	111¾	4 0 6	3 10 6
India 3½% 1931 or after	JAJO	97½	3 11 10	—
India 3% 1948 or after	JAJO	86	3 9 9	—
Sudan 4½% 1939-73 Av. life 27 years	FA	117	3 16 11	3 10 3
Sudan 4% 1974 Red. in part after 1950	MN	113	3 10 10	2 19 3
Tanganyika 4% Guaranteed 1951-71	FA	115	3 9 7	2 16 5
Transvaal Government 3% Guaranteed 1923-53 Average life 12 years	MN	102	2 18 10	2 16 0
L.P.T.B.4½% "T.F.A." Stock 1942-72	JJ	112	4 0 4	2 12 2
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	109	3 13 5	3 7 10
*Australia (C'mm'nw'th) 3¾% 1948-53	JD	106	3 10 9	3 4 2
Canada 4% 1953-58	MS	112	3 11 5	3 3 0
*Natal 3% 1929-49	JJ	100	3 0 0	3 0 0
*New South Wales 3½% 1930-50	JJ	102	3 8 8	—
*New Zealand 3% 1945	AO	100	3 0 0	3 0 0
Nigeria 4% 1963	AO	112	3 11 5	3 7 0
Queensland 3½% 1950-70	JJ	101	3 9 4	3 8 4
South Africa 3½% 1953-73	JD	106xd	3 6 0	3 1 6
*Victoria 3½% 1929-49	AO	101	3 9 4	—
*W. Australia 3½% 1935-55	AO	101	3 9 4	1 9 4
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	95	3 3 2	—
Croydon 3% 1940-60	AO	98	3 1 3	3 2 4
Essex County 3½% 1952-72	JD	106	3 6 0	3 1 3
*Hull 3½% 1925-55	FA	103	3 8 0	—
Leeds 3% 1927 or after	JJ	94	3 3 10	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	106	3 6 0	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	83xd	3 0 3	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	95½xd	3 2 10	—
Manchester 3% 1941 or after	FA	95	3 3 2	—
Metropolitan Consd. 2½% 1920-49	MJSD	98½xd	2 10 9	2 12 6
Metropolitan Water Board 3% "A" 1963-2003	AO	96	3 2 6	3 2 10
Do. do. 3% "B" 1934-2003	MS	97	3 1 10	3 2 1
Do. do. 3% "E" 1953-73	JJ	100	3 0 0	3 0 0
Middlesex County Council 4% 1952-72	MN	112	3 11 5	3 2 4
Do. do. 4½% 1950-70	MN	114	3 18 11	3 7 1
Nottingham 3% Irredeemable	MN	95	3 3 2	—
Sheffield Corp. 3½% 1968	JJ	105	3 6 8	3 5 1
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	112	3 11 5	—
Gt. Western Rly. 4½% Debenture	JJ	122½	3 13 6	—
Gt. Western Rly. 5% Debenture	JJ	132½	3 15 6	—
Gt. Western Rly. 5% Rent Charge	FA	130½	3 16 8	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	127½	3 18 5	—
Gt. Western Rly. 5% Preference	MA	113	4 8 6	—
Southern Rly. 4% Debenture	JJ	111	3 12 1	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	109½	3 13 1	3 9 4
Southern Rly. 5% Guaranteed	MA	127	3 18 9	
Southern Rly. 5% Preference	MA	113	4 8 6	—

*Not available to Trustees over par.

†In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

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